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federal register

Monday
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(ISSN 0097-6326)

10-5-92
Vol. 57 No. 193
Pages 45709-45972

federal register

Monday
October 5, 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.

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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.

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Contents

Federal Register

Vol. 57, No. 193

Monday, October 5, 1992

Agricultural Marketing Service
PROPOSED RULES
Fruits; import regulations:
Grapefruit, 45754

Agriculture Department
See Agricultural Marketing Service
See Farmers Home Administration
See Forest Service

Army Department
See Engineers Corps
NOTICES
Meetings:
Coastal Engineering Research Board, 45772

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
NOTICES
Senior Executive Service:
Performance Review Board; membership, 45765

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
India, 45770
Export visa requirements; certification, waivers, etc.:
Brazil, 45771

Comptroller of the Currency
PROPOSED RULES
Investment securities, 45756

Customs Service
PROPOSED RULES
Articles conditionally free, subject to a reduced rate, etc.:
United States-Israel Free Trade Area Agreement; duty preference provisions implementation, 45758

Defense Department
See Army Department
See Defense Logistics Agency
See Engineers Corps
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 45878
NOTICES
Agency information collection activities under OMB review, 45771, 45772

Defense Logistics Agency
PROPOSED RULES
Acquisition regulations:
Contracts—
Vendor rating system; withdrawn, 45759

Employment and Training Administration
NOTICES
Adjustment assistance:
Brown Shoe Co., 45823
Centra Leather Goods et al., 45823
Cold Spring Granite Co., 45824
Manchester Steel Co. et al., 45824
Signetics Co., 45825
Sunstrand ATG, 45825
Tobin-Hamilton Co., Inc., 45825
Emergency unemployment compensation program:
Extended benefit periods; changes, 45826

Energy Department
See Federal Energy Regulatory Commission
See Western Area Power Administration
NOTICES
Environmental statements; availability, etc.:
Idaho National Engineering Laboratory, ID; environmental restoration and waste management activities, 45773
Grant and cooperative agreement awards:
Central State University, 45778
Char-Fuel Associates, Ltd., 45778
Langston University, 45778
Prairie View A&M University, 45779
Natural gas exportation and importation:
Great Falls Gas Co., 45780
Intalco Aluminum Corp., 45781

Engineers Corps
NOTICES
Regulatory guidance letters, 45773

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Ohio, 45715
Hazardous waste program authorizations:
Arkansas, 45721, 45722
New Mexico, 45717
Texas, 45719
NOTICES
Air programs; fuel and fuel additives waivers:
Lubrizol Corp., 45790
Clean Air Act:
Confidential business information and data transfer to contractors, 45791
Meetings:
Ozone Transport Commission, 45791
Water pollution control:
Clean Water Act—
Class I and II administrative penalty assessments, 45792

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Meetings:
Materials Processing Technical Advisory Committee, 45765

Farmers Home Administration
RULES
Program regulations:
Business and industrial loan program, 45968

Federal Aviation Administration
NOTICES
Passenger facility charges; applications, etc.:
Valdosta Regional Airport, GA; correction, 45878

Federal Communications Commission
RULES
Radio services, special:
Aviation services—
Aircraft-earth stations, 45748
Private land mobile services—
Special emergency paging for patients; eligibility rules, 45751
Reporting and recordkeeping requirements, 45747
NOTICES
Rulemaking proceedings; petitions filed, granted, denied, etc., 45792

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 45877

Federal Election Commission
NOTICES
Special elections; filing dates:
New York, 45793
North Carolina, 45792

Federal Emergency Management Agency
NOTICES
Grants and cooperative agreements; availability, etc.:
Individual and family programs, and public assistance program; amounts adjustments, 45794

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Niagara Mohawk Power Corp., 45779
Applications, hearings, determinations, etc.:
Frontier Gas Storage Co., 45779
Texas Sea Rim Pipeline, Inc., 45780

Federal Reserve System
NOTICES
Agency information collection activities under OMB review, 45794
Applications, hearings, determinations, etc.:
Elinor M. Garner Family Trust, 45810
First Virginia Banks, Inc., 45810
Fleet Financial Group, Inc., 45810
Pioneer Bankcorp et al., 45811

Federal Transit Administration
NOTICES
Environmental statements; availability, etc.:
Greenbush Line Corridor, MA, 45864

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Bruneau Hot Springs snail, 45762
Findings on petitions, etc., 45761
NOTICES
Endangered and threatened species:
Recovery plans—
White River spinedace, 45818

Food and Drug Administration
NOTICES
Medical devices; premarket approval:
McGhan Intrashiel, UHP, and Bicell Fixed Volume Prostheses and Variable Volume Prostheses, 45811
Mentor Becker Expander/Mammary Prosthesis Smooth or Siltex Textured Surface, 45813
Mentor Combination Gel-Saline Mammary Prothesis Smooth or Siltex Textured Surface, 45812
Mentor Low Bleed Gel-Filled Mammary Prosthesis Smooth or Siltex Textured, 45812

Forest Service
NOTICES
Boundary establishment, descriptions, etc.:
Athens Purchase Unit, OH; correction, 45765

General Services Administration
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 45878

Health and Human Services Department
See Food and Drug Administration
See Health Care Financing Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service
See Social Security Administration

Health Care Financing Administration
NOTICES
Medicaid:
State plan amendments, reconsideration; hearings—
Maryland, 45814

Health Resources and Services Administration
See Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Area health education centers program, 45815

Indian Affairs Bureau
NOTICES
Environmental statements; availability, etc.:
Navajo Indian Reservation, AZ and NM, 45956
Rosebud Sioux Indian Reservation, SD, 45958

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service
RULES
Excise taxes:
Transportation by water
Correction, 45713
Income taxes:
Arbitrage restrictions—
Tax-exempt bonds; correction, 45878
Corporate net operating loss carryforwards; limitations, 45711

Returned magazines, paperbacks or records; accounting method
Correction, 45879
PROPOSED RULES
Procedure and administration:
Federal Crop Insurance Act; policyholders and reinsured companies employer identification number FCIC requirement
Correction, 45759

International Trade Administration
NOTICES
Antidumping:
Helical spring lock washers from China et al., 45765
Large power transformers from Japan, 45767
Provisional measures deposit cap; policy change, 45769
Synthetic methionine from Japan, 45770

International Trade Commission
NOTICES
Import investigations:
Microcomputer memory controllers, components, and products containing same, 45819

Interstate Commerce Commission
RULES
Motor carriers:
Single State insurance registration system
Effective date stay, 45751

Labor Department
See Employment and Training Administration
See Labor Statistics Bureau
See Pension and Welfare Benefits Administration
NOTICES
Agency information collection activities under OMB review, 45819

Labor Statistics Bureau
NOTICES
Meetings:
Business Research Advisory Council, 45822

Land Management Bureau
RULES
Public land orders:
New Mexico, 45725
NOTICES
Meetings:
Albuquerque District Advisory Council, 45817
Realty actions; sales, leases, etc.:
Nevada; correction, 45878

Legal Services Corporation
NOTICES
Grant and cooperative agreement awards:
Legal Services of Eastern Missouri, Inc., 45837
Grants and cooperative agreements; availability, etc.:
Tri-Parish area, LA; civil legal services, 45838

National Aeronautics and Space Administration
RULES
Federal Acquisition Regulation (FAR):
Cost accounting standards
Correction, 45876
NOTICES
Meetings:
Advisory Council task forces, 45838
Space Science and Applications Advisory Committee, 45838

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Lamps, reflective devices, and associated equipment—
Side turn signal lamps on trailers over 45 feet in length; petition denied, 45760
Tire selection and rims for vehicles other than passenger cars; labeling; petition denied, 45759
NOTICES
Motor vehicle safety standards; exemption petitions, etc.:
Blue Bird Body Co., 45863
Bridgestone/Firestone, Inc., 45865
Chrysler Corp., 45865
General Motors Corp., 45866
Michelin Tire Corp., 45867
Mitsubishi Motors America, 45868
PACCAR Inc., 45868
Uniroyal Goodrich Tire Co., 45869

National Institutes of Health
NOTICES
Meetings:
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 45817

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Ocean salmon off coasts of Washington, Oregon, and California, 45751

National Science Foundation
NOTICES
Agency information collection activities under OMB review, 45839
Antarctic Conservation Act of 1978; permit applications, etc., 45839

Nuclear Regulatory Commission
NOTICES
Abnormal occurrence reports:
Quarterly reports to Congress, 45839
Meetings; Sunshine Act, 45877

Patent and Trademark Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Patents Advisory Committee, 45770

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Detroit Diesel Remanufacturing-West, Inc., et al., 45826
Holiday Inns, Inc., et al., 45832

Pension Benefit Guaranty Corporation
RULES
Responsibility and ethical conduct of employees:
Appearances in certain proceedings, 45713

Personnel Management Office
PROPOSED RULES
Federal claims collection; tax refund offset, 45753

Postal Service
RULES
Domestic Mail Manual:
Zip+4 and Zip+4 barcoded rate mailings; preparation requirements, 45882

Presidential Documents
EXECUTIVE ORDERS
Committees; establishment, renewal, termination, etc.:
Commission on Management of the Agency for International Development, President's; term extension (EO 12815), 45709
PROCLAMATIONS
Special observances:
Columbus Day (Proc. 6484), 45865
Mental Illness Awareness Week (Proc. 6482), 45961
School Lunch Week, National (Proc. 6483), 45963

Public Health Service
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
RULES
Grants:
Teaching facilities construction, educational improvements, scholarships, and student loans, 45725
NOTICES
Organization, functions, and authority delegations:
Indian Health Service, Director, 45817

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc., 45844
Chicago Board Options Exchange, Inc., 45849
Philadelphia Stock Exchange, Inc., 45854
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 45853
Philadelphia Stock Exchange, Inc., 45853
Applications, hearings, determinations, etc.:
Capstead Securities Corp. VI, 45855
Chubb Separate Account B of Chubb Life Insurance Co. of America, 45859
ML Venture Partners II, L.P., et al., 45859
Prudential California Municipal Fund et al., 45861
Public utility holding company filings, 45862

Social Security Administration
RULES
Social security benefits:
Appendices, tables, and lists update
Correction, 45878

Surface Mining Reclamation and Enforcement Office
NOTICES
Agency information collection activities under OMB review, 45818, 45819

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Thrift Supervision Office
PROPOSED RULES
Savings associations:
Capital—
Concentration risk and risk of nontraditional activities, 45757

Transportation Department
See Federal Aviation Administration
See Federal Transit Administration
See National Highway Traffic Safety Administration

Treasury Department
See Comptroller of the Currency
See Customs Service
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Agency information collection activities under OMB review, 45869, 45870
Notes, Treasury:
H–1999 series, 45871
Organization, functions, and authority delegations:
Assistant Secretary (Management), 45870

United States Information Agency
NOTICES
Meetings:
English Teaching Advisory Panel, 45874

Veterans Affairs Department
NOTICES
Agency information collection activities under OMB review, 45874, 45875
Meetings:
Cooperative Studies Evaluation Committee, 45875

Western Area Power Administration
NOTICES
Power marketing plans, etc.:
Central Valley Project, CA, 45782

Separate Parts In This Issue

Part II
Postal Service, 45882

Part III
Department of the Interior, Bureau of Indian Affairs, 45956

Part IV
Department of the Interior, Bureau of Indian Affairs, 45958

Part V
The President, 45961

Part VI
Department of Agriculture, Farmers Home Administration, 45968

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.

3 CFR

Proclamations:

6482 45961
6483 45963
6484 45965

Executive Orders:

12815 45709

5 CFR

Proposed Rules:

835 45753

7 CFR

1980 45968

Proposed Rules:

944 45754

12 CFR

Proposed Rules:

1 45756
567 45757

19 CFR

Proposed Rules:

10 45758

20 CFR

404 45878

26 CFR

1 (3 documents) 45711, 45878
43 45713
602 45711

Proposed Rules:

301 45759

29 CFR

2602 45713

39 CFR

111 45882

40 CFR

52 45715
271 (4 documents) 45717–45722

42 CFR

57 45725

43 CFR

Public Land Orders:

6950 45725

47 CFR

0 45747
87 45748
90 45751

48 CFR

52 45878

Proposed Rules:

5415 45759
5452 45759

49 CFR

1023 45751

Proposed Rules:

552 45759
571 45760

50 CFR

661 45751

Proposed Rules:

17 (2 documents) 45761, 45762

Federal Register
Vol. 57, No. 193
Monday, October 5, 1992

Presidential Documents

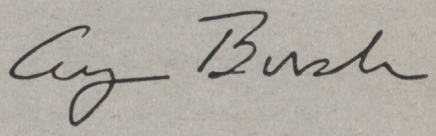
Title 3—

The President

Executive Order 12815 of September 30, 1992

Extending the President's Commission on Management of the Agency for International Development (AID) Programs

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), and in order to extend the President's Commission on Management of the Agency for International Development (AID) Programs, it is hereby ordered that section 4(b) of Executive Order No. 12813 of August 4, 1992, is amended by deleting "September 30, 1992" and inserting in lieu thereof "December 31, 1992."



THE WHITE HOUSE,
September 30, 1992.

[FR Doc. 92-24290
Filed 10-1-92; 4:23 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 57, No. 193
Monday, October 5, 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.
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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8440]

RIN 1545-AN76

Final Regulations Under Section 382 of the Internal Revenue Code of 1986; Limitations on Corporate Net Operating Loss Carryforwards

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document amends the regulations under section 382 of the Internal Revenue Code to except from the option attribution rules included in those regulations options designated by the Internal Revenue Service in the Internal Revenue Bulletin. This amendment gives the Treasury Department greater flexibility in providing additional exceptions to those rules. This document also provides a skeletal outline for future final regulations under section 382.

EFFECTIVE DATES: This regulation is effective October 5, 1992 except that § 1.382-4(b)(2)(ii) is effective as of December 26, 1989.

FOR FURTHER INFORMATION CONTACT: Keith E. Stanley of the Office of Assistant Chief Counsel (Corporate), Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:CORP:1) or telephone 202-622-7750 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 382 limits the amount of income earned by a corporation after an "ownership change" that can be offset by losses incurred prior to the ownership change. Sections 1.382-1T and 1.382-2T of the temporary regulations provide guidance regarding the definition of "ownership change." See 52 FR 29663 (August 11, 1987). The temporary regulations include option attribution rules that, subject to certain exceptions, treat options as exercised if the deemed exercise results in an ownership change.

In 1989, the temporary regulations were amended to except from the option attribution rules any options designated by the Internal Revenue Service in the Internal Revenue Bulletin. See 54 FR 52935 (December 26, 1989). At that time, the Service proposed that that same provision be included in the final section 382 regulations, when issued. See 54 FR 52955 (December 26, 1989). No hearing was requested and no comments were received regarding the amendment. The amendment is subject to section 7805(e)(2) (as amended by the Technical and Miscellaneous Revenue Act of 1988), which provides that temporary regulations issued after November 20, 1988, expire within 3 years after their issuance.

Explanation of Provisions

This document adopts as a final regulation the provision described above without substantive change. The provision thus excepts from the section 382 option attribution rules any options designated by the Service in the Internal Revenue Bulletin.

The Service is considering a more general revision of the section 382 option attribution rules. Therefore, this document does not adopt as final regulations any of the other option attribution rules provided in the temporary regulations.

This document also provides a skeletal outline for future final regulations under section 382 and, in so doing, redesignates several provisions of the existing final regulations under section 382.

Special Analyses

It has been determined that these regulations are not major regulations 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 final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code (as in effect December, 1989), the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Keith E. Stanley, Office of the Assistant Chief Counsel (Corporate), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects

26 CFR 1.381(a)-1 through 1.383-3

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

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

Paragraph 1. The authority citation for part 1 is amended by removing the current citations for §§ 1.382-2 and 1.382-3 and by adding the following citations:

Authority: 26 U.S.C. 7805 * * * Section 1.382-2 also issued under 26 U.S.C. 382(k)(1), 26 U.S.C. 382(m), and 26 U.S.C. 383. Section 1.382-3 also issued under 26 U.S.C. 382(m). Section 1.382-4 also issued under 26 U.S.C. 382(1)(3) and 382(m). Section 1.382-9 also issued under 26 U.S.C. 382(1)(3)(A) and 382(m). * * *

§ 1.382-1 [Removed]

Par. 2. Section 1.382-1 is removed.

§ 1.382-1T [Redesignated as § 1.382-1]

Par. 3. Section 1.382-1T is redesignated as § 1.382-1 and amended by:

1. Revising the section heading.
2. Revising the introductory text.
3. Adding a section heading in the table of contents for § 1.382-2T

immediately following the introductory text; and amending the table of contents entries in the newly designated § 1.382–2T by adding (h)(4)(x) (I) through (Z).

4. Adding entries for §§ 1.382–1T, 1.382–2, and 1.382–3 through 1.382–11 to the table of contents.

5. The revisions and additions read as follows:

§ 1.382–1 Table of contents.

This section lists the captions that appear in the regulations for §§ 1.382–1T, 1.382–2, 1.382–2T, and 1.382–3 through 1.382–11.

§ 1.382–1T [Reserved].

§ 1.382–2 General rules for ownership change.

(a) Certain definitions for purposes of sections 382 and 383 and the regulations thereunder.
(1) Loss corporation.
(i) In general.
(ii) Distributor of transferor loss corporation in a transaction under section 381.
(iii) Separate accounting required for losses and credits of an acquiring corporation and a distributor or transferor loss corporation.
(2) Pre-change loss.
(b) [Reserved].

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *

(h) * * *
(4) * * *
(x) * * *
(I) [Reserved].
(J) Title 11 of similar case.
(K) through (Y) [Reserved].
(Z) Options designated in the Internal Revenue Bulletin.

* * * * *

§ 1.382–3 Definitions and rules relating to a 5-percent shareholder.

(a) Definitions.
(1) Entity.
(i) In general.
(ii) Examples.
(iii) Effective date.
(A) In general
(B) Special rule.
(C) Example.
(2) [Reserved].
(b) through (j) [Reserved].
(k) Special rules for certain regulated investment companies.
(1) In general.
(2) Effective date.
(i) General rule.
(ii) Election to apply prospectively.

§ 1.382–4 Constructive ownership of stock.

(a) [Reserved].
(b) Option attribution.
(1) [Reserved].
(2) Options not subject to attribution.
(i) [Reserved].
(ii) Options designated in the Internal Revenue Bulletin.

§ 1.382–5 Section 382 limitation. [Reserved].

§ 1.382–6 Special rules for change year. [Reserved].

§ 1.382–7 Built-in gains and losses. [Reserved].

§ 1.382–8 Controlled groups. [Reserved].

§ 1.382–9 Special rules under section 382 for corporations under the jurisdiction of a court in a title 11 or similar case.

(a) Introduction.
(b) Application of section 382(1)(5).
(c)—(d) [Reserved].
(e) Option attribution for purposes of determining stock ownership under section 382(1)(5)(A)(ii).
(1) In general.
(2) Special rules.
(i) Lapse or forfeiture of options deemed exercised.
(ii) Actual exercise of options not deemed exercised.
(iii) Amended returns.
(3) Examples.
(4) Effective dates.
(i) In general.
(ii) Special rule for interest or dividends.
(f) through (l) [Reserved].
(m) Continuity of business requirement.
(1) Under section 382(1)(5).
(2) [Reserved].
(n) [Reserved].
(o) Options not subject to attribution.

§ 1.382–10 [Reserved].

§ 1.382–11 Effective dates. [Reserved].

§ 1.3821T [Added]

Par. 4. Section 1.382–1T is added and reserved.

Par. 5. The heading for § 1.382–2 is revised to read as follows:

§ 1.382–2 General rules for ownership change.

Par. 6. Section 1.382–2T is amended as follows:

1. Paragraph (f)(7) is amended by removing the language "§ 1.382–(a)(3)" and adding "§ 1.382–3(a)(1)" in its place.

2. *Example 5* of paragraph (g)(4) is amended by removing the language "§ 1.382–2(a)(3)(ii)" and adding "§ 1.382–3(a)(1)(ii)" in its place.

3. Paragraph (h)(4)(x)(J) is amended by removing the language "§ 1.382–3(o)" and adding "§ 1.382–9(o)" in its place.

4. By revising paragraph (h)(4)(x)(Z) to read as set forth below.

5. Paragraph (j)(2)(iii)(A) is amended by removing the language "§ 1.382–4(k)(1)" and adding "§ 1.382–3(k)(1)" in its place.

6. The revised provision reads as follows:

§ 1.382–2T Definition of ownership change under section 382, as amended by the Tax Reform Act of 1986 (temporary).

* * * * *

(h) * * *
(4) * * *
(x) * * *
(Z) *Options designated in the Internal Revenue Bulletin.* See § 1.382–4(b)(2)(ii) for Internal Revenue Service authority to designate in the Internal Revenue Bulletin exceptions from the operation of paragraph (h)(4)(i) of this section.

* * * * *

§ 1.382–3 [Redesignated as § 1.382–9]

Par. 7. Section 1.382–3 is redesignated as § 1.382–9.

§ 1.382–4 [Redesignated as § 1.382–3]

Par. 8. Section 1.382–4 is redesignated as § 1.382–3.

§ 1.382–3 [Amended]

Par. 9. Newly designated § 1.382–3 is amended as follows:

1. The paragraph heading for (a) is added to read as set forth below.

2. Section 1.382–2, paragraph (a)(3), is redesignated as paragraph (a)(1) of § 1.382–3.

3. Paragraph (a)(1), as newly designated, is amended as set forth in the list below. For each location indicated in the left column, remove the language indicated in the middle column, and add the language indicated in the right column:

Paragraph	Remove	Add
(a)(1)(ii), introductory text.	(a)(3)(i)	(a)(1)(i)
(a)(1)(ii), *Example 2* (ii), first sentence.	(a)(3)(ii)	(a)(1)(i)
(a)(1)(ii), *Example 2* (ii), first sentence.	(a)(3)(i)	(a)(1)(i)
(a)(1)(ii), *Example 3* (ii), first sentence.	(a)(3)(i)	(a)(1)(i)
(a)(1)(iii)(A), first sentence.	(a)(3)(i)	(a)(1)(i)
(a)(1)(iii)(A), first sentence.	(a)(3)(ii)	(a)(1)(ii)
(a)(1)(iii)(B), first sentence.	(a)(3)(i)	(a)(1)(i)
(a)(1)(iii)(B), first sentence.	Examples 1, 2, and 3 of this section.	Examples 1, 2, and 3 of paragraph (a)(1)(ii) of this section
(a)(1)(iii)(C), first sentence.	(a)(3)(iii)	(a)(1)(iii)

4. Paragraph (a)(2) is added and reserved.

5. Paragraph (k)(2)(ii) is amended by removing "§ 1.382–4(k)(1)" and adding "§ 1.382–3(k)(1)" in its place.

6. The added, revised, and reserved provisions read as follows:

§ 1.382–3 Definitions and rules relating to a 5-percent shareholder.

(a) *Definitions.* * * *
(2) [Reserved].

(b) through (j) [Reserved].

* * * * *

Par. 10. New §§ 1.382–4 through 1.382–8 are added; the third and fourth sentences of § 1.382–9(o)(2), as newly designated, are revised; § 1.382–10 is added and reserved; and § 1.382–11 is added to read as follows:

§ 1.382–4 Constructive ownership of stock.

(a) [Reserved].

(b) *Option attribution.* (1) [Reserved].

(2) *Options not subject to attribution.* Section 1.382–2T(h)(4)(i) shall not apply to—

(i) [Reserved].

(ii) *Options designated in the Internal Revenue Bulletin.* Any option designated by the Internal Revenue Service in the Internal Revenue Bulletin as being excepted from the operation of § 1.382–2T(h)(4)(i).

§ 1.382–5 Section 382 limitation. [Reserved].

§ 1.382–6 Special rules for change year. [Reserved].

§ 1.382–7 Built-in gains and losses. [Reserved].

§ 1.382–8 Controlled groups. [Reserved].

§ 1.382–9 Special rules under section 382 for corporations under the jurisdiction of a court in a title 11 or similar case.

* * * * *

(o) * * *

(2) * * * A loss corporation may elect to apply this paragraph (o) to any testing date occurring before September 5, 1990, by filing a statement substantially similar to the following with its income tax return: "THIS IS AN ELECTION TO APPLY § 1.382–3(o) (OR § 1.382–9(o) AFTER REDESIGNATION) FOR TESTING DATES PRIOR TO SEPTEMBER 5, 1990, TO OPTIONS CREATED BY OR UNDER A PLAN OF REORGANIZATION CONFIRMED IN A TITLE 11 OR SIMILAR CASE." A loss corporation may elect to not apply this paragraph (o) to testing dates occurring on or after September 5, 1990, to April 8, 1992, by filing a statement substantially similar to the following with its income tax return: "THIS IS AN ELECTION TO NOT APPLY § 1.382–3(o) (OR § 1.382–9(o) AFTER REDESIGNATION) FOR TESTING DATES OCCURRING ON OR AFTER SEPTEMBER 5, 1990, TO APRIL 8, 1992, TO OPTIONS CREATED BY OR UNDER A PLAN OF REORGANIZATION CONFIRMED IN A TITLE 11 OR SIMILAR CASE." * * *

§ 1.382–10 [Reserved]

§ 1.382–11 [Reserved]

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 11. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 12. Section 602.101(c) is amended by removing the entries for sections 1.382–3 and 1.382–4 and adding the following entries in the table:

"Section 1.382–3.....1545–1281
Section 1.382–9.....1545–1260".

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: September 1, 1992.

Fred T. Goldberg, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 92–23731 Filed 10–2–92; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 43

[T.D. 8422]

RIN 1545–A041; 1545–AP03

Final Regulations Regarding the Tax on Transportation by Water; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations (T.D. 8422), which were published Thursday, July 30, 1992 (57 FR 33635). The regulations implement the tax on transportation of passengers on covered voyages by certain vessels under sections 4471 and 4472 of the Internal Revenue Code (the Code) as enacted by section 7504 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239, 103 Stat. 2106, 2362).

EFFECTIVE DATE: July 30, 1992.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden, Jr. (202) 622–3130 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide taxpayers with rules and definitions for complying with the tax imposed by section 4471 of the Code.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (T.D. 8422), which were the subject of FR Doc. 92–17830, is corrected as follows:

§ 43.4472–1 [Corrected]

Paragraph. 1. On page 33637, column one, in § 43.4472–1, paragraph (f)(2), lines 3 and 4, the language "her owners. A person is engaged in the business of the vessel or her owners if" is corrected to read "its owners. A person is engaged in the business of the vessel or its owners if".

Par. 2. On page 33637, column one, in § 43.4472–1, paragraph (f)(2), line 8, the language "on behalf of the vessel or her owners" is corrected to read "on behalf of the vessel or its owners".

Par. 3. On page 33637, column one, in § 43.4472–1, paragraph (f)(2), line 15, the language "though the vessel or her owners may" is corrected to read "though the vessel or its owners may".

Dale D. Goode,

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

[FR Doc. 92–24109 Filed 10–2–92; 8:45 am]

BILLING CODE 4830–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2602

Appearances in Certain Proceedings

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for Pension Benefit Guaranty Corporation ("PBGC") employees who are served with compulsory process or are otherwise requested to appear in proceedings in which the PBGC is not a party. It generally provides that, unless authorized by the General Counsel (or his or her designee), current and former PBGC employees may not give testimony relating to their official duties in judicial, administrative, state and local legislative, or other proceedings. The rule provides for the orderly and efficient handling of requests and is designed to assure the agency's impartiality in such proceedings.

EFFECTIVE DATE: October 5, 1992.

FOR FURTHER INFORMATION CONTACT: David W. Kemps, Attorney, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K

Street, NW., Washington, DC 20006; 202–778–8886 (202–778–1958 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation ("PBGC") administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1301 *et seq.* Through the PBGC's role in the administration of ERISA, it increasingly has become involved in complex legal proceedings and negotiations relating to companies that maintain defined benefit pension plans. Companies about which the PBGC has acquired information also desire to utilize the expertise of PBGC employees in their litigation. As a consequence, parties involved in litigation with companies, about which the PBGC has acquired information, desire to utilize the information obtained by the PBGC as part of their litigation strategy, and in proceedings in which the PBGC is not a party, PBGC employees have been subpoenaed to provide information and/or opinions based upon knowledge and experience gained through performance of their official duties.

The PBGC, as an agency of the United States government, occupies a position of public trust. As such, it must effectively serve the public while seeking to conserve agency resources. To accomplish its mandate while maintaining its impartiality, the PBGC has concluded that it should amend its regulations to include procedures for responding to demands and requests for appearances by its employees in proceedings in which the PBGC is not a party. By centralizing the decisionmaking process for such requests and demands, the agency will ensure consistency while minimizing the disruption of official agency business.

The federal courts have recognized that federal agencies have legitimate policy reasons for restricting compliance with subpoenas served on their employees. *See, e.g., United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951). Such limitations on subpoena enforcement serve to conserve limited government resources, provide for a uniform centralized decisionmaking process, and minimize government involvement in controversial matters unrelated to government business. *See, e.g., Boron Oil Co.* v. *Downie,* 873 F.2d 67 (4th Cir. 1989); *Wade* v. *Singer Co.,* 130 FR 89 (N.D. Ill. 1990). The federal courts also have refused to enforce state court orders on jurisdictional grounds. *See Giza* v. *Secretary of HEW,* 628 F.2d 748 (1st Cir. 1980); *Reynolds Metals Company* v. *Crowther,* 572 F.Supp 288 (D. Mass. 1982).

This rule amends the PBGC's regulations by adding several new sections as subpart B of part 2602 (29 CFR Part 2602). (Existing provisions of part 2602 are being designated as subpart A.) The rules and procedures in subpart B are to be followed if the requested appearance in a proceeding, in which the PBGC is not a party, arises out of or relates to employment with PBGC (§ 2602.41(a)). Subpart B applies with respect to judicial, administrative, legislative, and other proceedings (§ 2602.41(b)), including any proceeding before a federal, state, or local court or agency, a state or local legislature, or any other authority responsible for administering regulatory requirements or adjudicating disputes or controversies (*e.g.*, arbitration of disputes involving multiemployer plans under ERISA section 4221 [29 U.S.C. 1401]) (§ 2602.42).

Section 2602.43 prohibits both current and former PBGC employees from appearing in proceedings to which Subpart B applies unless authorized as provided therein. An employee who testifies or produces material in violation of this subpart is subject to disciplinary action (§ 2602.46).

Section 2602.44 requires that PBGC employees and former employees, when requested or served with compulsory process to appear, promptly notify the General Counsel (paragraph (a)). The General Counsel or his or her designee will authorize an appearance by an employee or former employee if and to the extent he or she determines that such appearance is in the interest of the PBGC (paragraph (b)). If, in response to valid compulsory process, the General Counsel or his or her designee has not authorized an appearance by the return date, the employee or former employee must respectfully decline to provide any testimony or produce any documents or other material and, when the demand is under consideration, request a stay pending instructions from the General Counsel or his or her designee (paragraph (c)). A PBGC attorney will accompany him or her in all such situations.

The Freedom of Information Act, as amended, (5 U.S.C. 552) requires agencies to provide nonexempt documents in response to written requests. Accordingly, if the General Counsel or his or her designee concludes that compulsory process is essentially a request for PBGC record information, it will be treated as a request under the Freedom of Information Act, in accordance with Part 2603 of the PBGC's regulations, except to the extent that the Privacy Act of 1974, as amended, and Part 2607 of this subchapter govern disclosure of a record maintained on an individual.

Finally, if the PBGC is asked to provide authenticated copies of official records for purposes of admissibility under 28 U.S.C. 1733 and Rule 44 of the Federal Rules of Civil Procedure, the agency will grant the request for records that are to be disclosed pursuant to this subpart or Part 2603 of the regulations (§ 2602.45). Appropriate fees will be charged, in accordance with the fee schedule in § 2603.52 of the regulations.

This rule relates to internal PBGC management. As such, notice of proposed ruelmaking and opportunity for comment are not required, and the rule's effective date may be the date of publication in the Federal Register. (5 U.S.C. 553 (a) and (b)).

List of Subjects in 29 CFR Part 2602

Conflict of Interests, Government Employees, Penalties, Political Activities (Government Employees), Production and Disclosure of Information, Testimony.

For the reasons set forth above, 29 CFR Part 2602 is amended as follows:

PART 2602—ETHICAL CONDUCT OF EMPLOYEES; APPEARANCES IN CERTAIN PROCEEDINGS

1. The authority citation for part 2602 is revised to read as follows:

Authority: 29 U.S.C. 1302(b); E.O. 11222, 30 FR 6469, 3 CFR 1964–65, Comp., p. 306; 5 CFR 735.104.

2. Part 2602 is amended by revising the heading as set forth above; by designating §§ 2602.1 through 2602.32 as Subpart A; by removing the words "this part" and "this part" each time they appear in Subpart A and adding, in their place, the words "this subpart" and "this subpart", respectively; by adding "Subpart A of" before "Part" in the heading of Appendix A; and by adding a subpart heading above the undesignated centerhead "GENERAL" immediately preceding § 2602.1 to read as follows:

Subpart A—Ethical Conduct of Employees.

3. Part 2602 is further amended by adding new subpart B to read as follows:

Subpart B—Appearances in Certain Proceedings

Sec.

2602.41 Purpose and scope.
2602.42 Definitions.
2602.43 General.
2602.44 Appearances by PBGC employees.
2602.45 Requests for authenticated copies of PBGC documents.
2602.46 Penalty.

§ 2602.41 Purpose and scope.

(a) *Purpose.* This subpart sets forth the rules and procedures to be followed when a PBGC employee or former employee is requested or served with compulsory process to appear as a witness or produce documents in a proceeding in which the PBGC is not a party, if such appearance arises out of, or is related to, his or her employment with the PBGC. It provides a centralized decisionmaking mechanism for responding to such requests and compulsory process.

(b) *Scope.*

(1) This subpart applies when, in a judicial, administrative, legislative, or other proceeding, a PBGC employee or former employee is requested or served with compulsory process to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce material acquired in the course of performing official duties or contained in PBGC files.

(2) This subpart does not apply to:

(i) Proceedings in which the PBGC is a party;

(ii) Congressional requests or subpoenas for testimony or documents; or

(iii) Appearances by PBGC employees in proceedings that do not arise out of, or relate to, their employment with PBGC (*e.g.*, outside activities that are engaged in consistent with the requirements of Subpart A of this part).

§ 2602.42 Definitions.

Appearance means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

Compulsory Process means any subpoena, order, or other demand of a court or other authority (*e.g.*, an administrative agency or a state or local legislative body) for the appearance of a PBGC employee or former employee.

Employee means any officer or employee of the PBGC, including a special government employee.

PBGC means the Pension Benefit Guaranty Corporation.

Proceeding means any proceeding before any federal, state, or local court; federal, state, or local agency; state or local legislature; or other authority responsible for administering regulatory requirements or adjudicating disputes or controversies, including arbitration, mediation, and other similar proceedings.

Special government employee means an employee of the PBGC who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis (18 U.S.C. 202).

§ 2602.43 General.

No PBGC employee or former employee may appear in any proceeding to which this subpart applies to testify and/or produce documents or other material unless authorized under this subpart.

§ 2602.44 Appearances by PBGC employees.

(a) Whenever a PBGC employee or former employee is requested or served with compulsory process to appear in a proceeding to which this subpart applies, he or she will promptly notify the general Counsel.

(b) The General Counsel or his or her designee will authorize an appearance by a PBGC employee or former employee if, and to the extent, he or she determines that such appearance is in the interest of the PBGC.

(1) In determining whether an appearance is in the interest of the PBGC, the General Counsel or his or her designee will consider relevant factors, including:

(i) What, if any, objective of the PBGC (and, where relevant, any federal agency, if the United States is a party) would be promoted by the appearance;

(ii) Whether the appearance would unnecessarily interfere with the employee's official duties;

(iii) Whether the appearance would result in the appearance of improperly favoring one litigant over another; and

(iv) Whether the appearance is appropriate under applicable substantive and procedural rules.

(2) If the General Counsel or his or her designee concludes that compulsory process is essentially a request for PBGC record information, it will be treated as a request under the Freedom of Information Act, as amended, in accordance with Part 2603 of this subchapter, except to the extent that the Privacy Act of 1974, as amended, and part 2607 of this subchapter govern disclosure of a record maintained on an individual.

(c) If, in response to compulsory process in a proceeding to which this subpart applies, the General Counsel or his or her designee has not authorized an appearance by the return date, the employee or former employee shall appear at the stated time and place (unless advised by the General Counsel or his or her designee that process either was not validly issued or served or has been withdrawn), accompanied by a PBGC attorney, produce a copy of this subpart of the regulations, and respectfully decline to provide any testimony or produce any documents or other material. When the demand is under consideration, the employee shall respectfully request that the court or other authority stay the demand pending the employee's receipt of instructions from the General Counsel.

§ 2602.45 Requests for authenticated copies of PBGC records.

The PBGC will grant requests for authenticated copies of PBGC records, for purposes of admissibility under 28 U.S.C. 1733 and Rule 44 of the Federal Rules of Civil Procedure, for records that are to be disclosed pursuant to this subpart or part 2603 of this subchapter. Appropriate fees will be charged for providing authenticated copies of PBGC records, in accordance with subpart B of part 2603 of this subchapter.

§ 2602.46 Penalty.

A PBGC employee who testifies or produces documents or other material in violation of a provision of this subpart of the regulations shall be subject to disciplinary action.

Issued in Washington, DC this 30th day of September, 1992.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 92-24102 Filed 10-2-92; 8:45 am]

BILLING CODE 7708-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH18-1-5386, OH25-1-5392, OH26-1-5393; FRL-4517-1]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: The USEPA announces final disapproval of four source specific revision requests to the ozone portion of the Ohio State Implementation Plan (SIP) for: Ford Motor Company, Cleveland Engine Plant I (Ford Motor); Tyler Elevator Products, Inc. (Tyler); Defense Logistics Agency Fuel Support Point (DLA); and Roton Corporation

(Roton). The Ohio Environmental Protection Agency (OEPA) submitted these SIP revision requests for the ozone portion of the SIP. These revisions would exempt these sources from existing SIP-approved RACT rules for ozone. By this notice, USEPA is disapproving the SIP revision requests because the State did not identify how the revisions would not interfere with attainment of the ozone National Ambient Air Quality Standards (NAAQS) or with reasonable further progress (RFP) toward that standard. In addition, the State did not provide for equivalent emission reductions to compensate from the relaxed emission limitations proposed by the State's submittals.

DATES: This final rulemaking becomes effective December 4, 1992, unless notice is received within 30 days that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of these SIP revision requests and USEPA's analysis are available at the following location for review: (It is recommended that you telephone Richard Schleyer, at (312) 353–5089, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

Written comments should be addressed to: William MacDowell, Chief, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Richard Schleyer, Regulation Development Section, Air Enforcement Branch (AE–17J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–5089.

SUPPLEMENTARY INFORMATION:

I. Background

The OEPA submitted the following revision requests to the ozone portion of its SIP:

(1) Ford Motor

On June 23, 1983, OEPA submitted a revision request to the ozone portion of the Ohio SIP for Ford Motor. The revision consists of a variance for three miscellaneous metal parts/products coating lines (K001–K003) at Ford Motor, which is located in Cuyahoga County. The variance would exempt Ford Motor from the emission limit requirements contained in OAC Rule 3745–21–09(U) and from the final compliance date requirements contained in OAC Rule 3745–21–04(C)(28) until July 1, 1983.

Under the existing federally approved SIP, each miscellaneous metal parts/products line (K001–003) at Ford Motor is subject to the control requirements contained in OAC Rule 3745–21–09(U)(1) (3.5 pounds of VOC per gallon of coating, excluding water) and OAC Rule 3745–21–04(C)(28) (final compliance by December 31, 1982). On October 31, 1980 (45 FR 72122) and June 29, 1982 (47 FR 28097), USEPA approved OAC Rule 3745–21–09(U) and OAC Rule 3745–21–04(C) as part of the SIP as meeting the reasonably available control technology (RACT) requirements of part D of the Clean Air Act.

(2) Tyler

On May 25, 1983, OEPA submitted a revision request to the ozone portion of the Ohio SIP for Tyler. The revision consists of a variance for two miscellaneous metal primer/finish coating lines (K001–K002) located in Cuyahoga County. The variance would exempt Tyler from the emission limit requirements contained in OAC Rule 3745–21–09(U) and from the final compliance date requirements contained in OAC rule 3745–21–04(C)(28) until June 30, 1983 for K001, and until December 31, 1983 for K002.

Under the existing federally approved SIP, each miscellaneous metal parts primer/finish coating lines (K001–K002) at Tyler is subject to the control requirements contained in OAC Rule 3745–21–09(U)(1) (3.0 pounds of VOC per gallon of coating) and OAC Rule 3745–21–04(C)(28) (final compliance by December 31, 1982). On October 31, 1980 (45 FR 72122) and June 29, 1982 (47 FR 28097), USEPA approved OAC Rule 3745–21–09(U) and OAC Rule 3745–21–04(C) as part of the SIP as meeting the RACT requirements of part D of the Clean Air Act.

(3) DLA

On January 6, 1986, OEPA submitted a revision request to the ozone portion of the Ohio SIP for DLA. The revision consists of a variance for two rail car loading racks, Numbers 1 and 2, located in Hamilton County. The variance would exempt DLA from the emission limit requirements contained in OAC Rule 3745–21–07(E).

Under the existing federally approved SIP, each rail car loading rack at DLA is subject to the control requirements contained in OAC Rule 3745–21–07(E). On October 31, 1980 (45 FR 72122) and June 29, 1982 (47 FR 28097), USEPA approved OAC Rule 3745–21–09(E) as part of the SIP as meeting the RACT requirements of part D of the Clean Air Act.

(4) Roton

On June 13, 1989, OEPA submitted a revision request to the ozone portion of the Ohio SIP for Roton. The revision consists of a variance for a vinyl coating line located in Medina County. The variance would exempt Roton from the emission limit requirements contained in OAC Rule 3745–21–09(H) and the final compliance date requirements contained in OAC Rule 3745–21–04(C)(7).

Under the existing federally approved SIP, each vinyl coating line is subject to the control requirements contained in OAC Rule 3745–21–09(H) (4.8 pounds VOC per gallon of coating, excluding water) and OAC Rule 3745–21–04(C)(7) (final compliance date by April 1, 1982). On October 31, 1980 (45 FR 72122) and June 29, 1982 (47 FR 28097), USEPA approved OAC Rule 3745–21–09(H) and OAC Rule 3745–21–04(C) as part of the SIP as meeting the RACT requirements of Part D of the Clean Air Act.

Ford Motor and Tyler are located in Cuyahoga County; DLA is located in Hamilton County; and Roton, is located in Medina County. These three counties were designated as nonattainment areas under the pre-amended Act.[1] Medina County was subsequently redesignated as an attainment area for ozone on June 12, 1984 Federal Register (49 FR 24124). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. Pursuant to the amended Clean Air Act, Cuyahoga and Hamilton Counties retained their designations as nonattainment and were classified by operation of law as moderate ozone nonattainment areas. Medina County was redesignated as nonattainment and classified as a moderate ozone nonattainment area on January 6, 1992 pursuant to a Federal Register notice published November 6, 1991 (56 FR 56694) to be codified at 40 CFR 81.336.

II. Compliance with the Clean Air Act, as Amended

These revision requests to the ozone portion of the Ohio SIP have been reviewed for conformance with the provisions of the amended Clean Air Act. USEPA has determined that Ohio has not provided a revision request that demonstrates that the revisions will not interfere with attainment and RFP. Section 110(1) prohibits USEPA from

[1] As published in the March 13, 1978 Federal Register (43 FR 8962), and in the October 5, 1978 Federal Register (43 FR 4 5993).

approving a revision request unless USEPA is assured that the revision will not interfere with attainment, RFP, or any other requirements of the Act. In addition, the State has not provided for equivalent reductions to compensate for the relaxation that the State request proposes. Since the State is providing that these four sources will not be subject to existing RACT requirements, the State is relaxing the RACT limits and providing for increased emissions of ozone precursors. Section 193 of the Clear Air Act provides:

> No control requirement in effect, or required to be adopted by an order, settlement agreement, or plan in effect before the date of the enactment of the CAAA of 1990 in any area which is a nonattainment area for any air pollutant may be modified after such enactment in any manner unless the modification insures equivalent or greater emission reductions of such air pollutant.

For nonattainment areas, the State must demonstrate that the SIP revision provides for offsetting emission reductions. These revision requests contain no plans for emission offsets or equivalent emission reductions. Therefore, no relaxation from the SIP requirements can be approved.

Final Action

USEPA is disapproving, in final, these four SIP revision requests because: (1) The State did not demonstrate that the relaxations from the emission limit requirements contained in OAC Rule(s) 3745–21–09(U), 3745–21–09(H), and 3745–21–07(E) will not interfere with the attainment and maintenance of the ozone standard; (2) RFP toward attainment has not been demonstrated; and (3) a relaxation of SIP requirements, in ozone nonattainment areas, is prohibited by the CAAA of 1990 without offsetting emission reductions.

Because USEPA considers today's action as noncontroversial and routine, we are approving it without prior proposal. The action will become effective on December 4, 1992. However, if we receive notice by November 4, 1992 that someone wishes to submit adverse or critical comments, then USEPA will publish: (1) a notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

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

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

USEPA's disapproval of the State request under section 110 and subchapter I, part D of the CAA does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect its State-enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it impose any new Federal requirements.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 4, 1992. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Intergovernmental relations, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 10, 1992.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 92–24095 Filed 10–2–92; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 271

[FRL–4517–6]

New Mexico; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of New Mexico has applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of New Mexico's application and has made a decision, subject to public review and comment, that New Mexico hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve New Mexico's hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. New Mexico's application for program revision is available for public review and comment.

DATES: This final authorization for the State of New Mexico shall be effective on December 4, 1992 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on New Mexico's program revision application must be received by the close of business on November 4, 1992.

ADDRESSES: Copies of the New Mexico's program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: New Mexico Environment Department, 525 Camino De Los Marquez Place, Suite 4, Santa Fe, New Mexico, 87502, phone (505) 827–4308, or the U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 655–6444. Written comments, referring to Docket Number NM–92–1, should be sent to Janie Hernandez, New Mexico Authorization Lead, Grants and

Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–8533.

FOR FURTHER INFORMATION CONTACT: Janie Hernandez, Grants and Authorization Section, RCRA programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

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

B. New Mexico

New Mexico initially received final authorization on January 25, 1985, (See 50 FR 1515) to implement its base hazardous waste management program. New Mexico received authorization for revision to its program on April 10, 1990, (See 55 FR 4604), and July 25, 1990, (See 55 FR 28397). On July 23, 1992, New Mexico submitted a final complete program revision application for additional program approvals. Today, New Mexico is seeking approval of its program revision in accordance with § 271.21(b)(3).

EPA has reviewed the State of New Mexico's application, and has made an immediate final decision that New Mexico's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to New Mexico. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of New Mexico's application for program revision are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice.

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

The New Mexico program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260–262, 264–266, 268, and 270 that were published in the **Federal Register** (FR) through May 4, 1990. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 [52 FR 25942–25953].	New Mexico Statutes Annotated (NMSA), 1978 § 74–4–3.1, 74–4–4(1)(4)(5) and (6) and 74–4–4.2 (Replacement Pamphlet 1992 ((Repl. Pamp.)), and New Mexico Laws 1991, Chapter 25, § 6, and the Hazardous Waste Management Regulations (HWMR)–6, as amended February 1991, §§ 501 and 901.
2. Identification and Listing of Hazardous Waste, July 10, 1987 [52 FR 26012]	NMSA §§ 74–4–4A(1) and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 201.
3. Liability Requirements for Hazardous Waste Facilities; November 18, 1987 [52 FR 44314–44321].	NMSA §§ 74–4–4A(5)(6) and 74–4–4D, 1978 (Repl. Pamp. 1992) and New Mexico Laws 1991, Chapter 25, § 6, and HWMR–6 as amended February 1991, §§ 501 and 601.
4. Technical Corrections; Identification and Listing of Hazardous Waste, April 22, 1988 [53 FR 13382–13393].	NMSA §§ 74–4–4A(1) and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended Feburary 1991, § 201.
5. Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption, July 19, 1988 [53 FR 27290–27302].	NMSA §§ 74–4–4A and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, §§ 101 and 201.
6. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, September 2, 1988 [53 FR 34079–34087].	NMSA, 1978, § 74–4–3.1, 74–4–4A and D, and 74–4–4.2 (Repl. Pamp. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR–6, as amended February 1991, §§ 101, 201, 301, 501, 601, and 901.
7. Identification and Listing of Hazardous Waste; and Designation Reportable Quantities, and Notification, September 13, 1988 [53 FR 35412–35421].	NMSA §§ 74–4–4A(1) and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 201.
8. Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities, October 11, 1988 [53 FR 39720–39731].	NMSA, 1978, § 74–4–3.1, 74–4–4A(5)(6) and 74–4–4.2 (Repl. Pamp. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR–6, as amended February 1991, § 501.
9. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Waste, October 31, 1988 [53 FR 43878–43881].	NMSA §§ 74–4–4A(1) and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 201.
10. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes, October 31, 1988 [53 FR 43881–43884].	NMSA §§ 74–4–4A(1) and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 201.
11. Standards for Generators of Hazardous Waste, November 8, 1988 [53 FR 45089–45093].	NMSA, 1978, § 74–4–4A(2)(3) and 74–4–4D (Repl. Pamp. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR–6, as amended February 1991, § 301.
12. Hazardous Waste Miscellaneous Units: Standards Applicable to Owners and Operators, January 9, 1989 [54 FR 615–617].	NMSA, 1978, §§ 74–4–4, 74–4–4.2 (Repl. Pamp. 1992), and HWMR–6, as amended February 1991, §§ 501, and 901.
13. Amendment to Requirements for Hazardous Waste Incinerator Permits, January 30, 1989 [54 FR 4286–4288].	NMSA, 1978, §§ 74–4–4, 74–4–4.2 (Repl. Pamp. 1992), and HWMR–6, as amended February 1991, § 901.
14. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting, March 7, 1989 [54 FR 9596–9609].	NMSA, 1978, §§ 74–4–4, 74–4–4.2, 74–4–9, (Repl. Pamp. 1992), NM Laws 1991, Chapter 25, § 6, and HWMR–6, as amended February 1991, § 901.
15. Delay of Closure Period for Hazardous Waste Management Facilities, August 14, 1989 [54 FR 33376–33398].	NMSA, 1978, §§ 74–4–3.1, 74–4–4A and 74–4–4D (Repl. Pamp. 1992), and NM Laws 1991, Chapter 25, § 6, and HWMR–6, as amended February 1991, §§ 501 and 601.
16. Mining Waste Exclusion I, September 1, 1989 [54 FR 36592–36642]	NMSA §§ 74–4–4A and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 201.
17 Testing and Monitoring Activities, September 29, 1989 [54 40260–40269]	NMSA §§ 74–4–4A and 74–4–4D, 1978 (Repl. Pamp. 1992), and HWMR–6 as amended February 1991, § 101 and § 201.

Federal citation	State analog
18. Changes to Part 124 Not Accounted for by 48 FR 14146-14295, April 1, 1983; 48 FR 30113-30115, June 30, 1983; 53 FR 28118-28157, July 26, 1988; 53 FR 37396-37414, September 26, 1988; and 54 FR 246-258, January 4, 1989.	NMSA, 1978, § 74-4-4.2, (Repl. Pamp. 1992), HWMR-6, as amended February 1991, §§ 901, 902 and 1003.
19. Mining Waste Exclusion II, January 23, 1990 [55 FR 2322-2354]	NMSA, 1978, § 74-4-4A & § 74-4-4D (Repl. Pamp. 1992), HWMR-6, as amended February 1991, §§ 101, 201, & 301.
20. Modification of F019 Listing, February 14, 1990 [55 FR 5340-5342]	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pamp. 1992), HWMR-6, as amended February 1991, § 201.
21. Testing and Monitoring Activities; Technical Corrections, March 9, 1990 [55 FR 8948-8950].	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pamp. 1992), and HWMR-6 as amended February 1991, §§ 101 and 201.
22. Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990 [55 FR 18726].	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pamp. 1992), HWMR-6, as amended February 1991, § 201.

New Mexico is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

D. Decision

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

New Mexico now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application. New Mexico 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.

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize New Mexico's program and for incorporation by reference of those provisions of New Mexico's statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. EPA is reserving amendment of part 272, subpart E, until 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 New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Lists of Subjects in 40 CFR Part 271

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

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

Dated: September 25, 1992.

Philip A. Charles,

Acting Regional Administrator.

[FR Doc. 92-24089 Filed 10-2-92; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-4517-5]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Texas' application and has made a decision, subject to public review and comment, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Texas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Texas' application for program revision is available for public review and comment.

DATES: This final authorization for the State of Texas shall be effective December 4, 1992 unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business on November 4, 1992.

ADDRESSES: Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Water Commission, Library, Fifth Floor, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, Texas 78711, phone (512) 463-7834; and U.S. EPA, Region 6, Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444. Written comments, referring to Docket Number TX-92-1, should be sent to Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655-8528.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is

equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

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

B. Texas

Texas initially received final authorization on December 12, 1984, effective December 26, 1984 (see 49 **Federal Register** (FR) 48300), and clarified on March 26, 1985 (see 50 FR 11858), to implement its base hazardous waste management program. Texas received authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), on May 24, 1990, effective July 23, 1990 (see 55 FR 21383), and on August 22, 1991, effective October 21, 1991 (see 56 FR 41626). On November 7, 1989, Texas submitted a program revision application for additional program approvals. Today, Texas is seeking approval of its program revision in accordance with Section 271.21(b)(3).

EPA has reviewed the State of Texas' application, and has made an immediate final decision that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of Texas' application for program revision are available for inspection and copying at the locations indicated in the "**ADDRESSES**" section of this notice.

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

The Texas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 144, 260, 261, 264, 265, and 270 that were published in the *FR* through April 22, 1988. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Texas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

The following language is contained in Texas' regulations at, *inter alia*, § 335.29; § 335.112(a); § 335.152(a); § 335.431(c); and essentially reads as follows:

"Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Health and Safety Code, * * * or rules of the Commission * * * the regulations in 40 Code of Federal Regulations (CFR) Part * * * are adopted by reference".

Whenever this language is employed in the State's regulations, including those sections cited above, it shall mean that the State incorporates the subject Federal regulations by reference in their entirety, unless this language in the State regulation references a specific provision of the Federal regulations to be excluded from the incorporation. The State made this interpretation in the Memorandum of Agreement it submitted with the program revisions noted herein.

	State analog
1. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 [52 FR 25942].	Title 31, Texas Administrative Code (TAC) 305.50(4), effective August 4, 1989; Title 31, TAC 335.164, effective August 4, 1989; Title 31, TAC 335.164(8)(B), effective August 4, 1989; Title 31, TAC 335.164(8)(C), effective August 4, 1989; Title 31, TAC 335.164(8)(D)(i), effective August 4, 1989; Title 31, TAC 335.165, effective August 4, 1989; Title 31, TAC 335.165(6), effective August 4, 1989.
2. Identification and Listing of Hazardous Waste, July 10, 1987 [52 FR 26012].....	Title 31, TAC 335.1, effective August 4, 1989.
3. Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, November 18, 1987 [52 FR 44314].	Title 31, TAC 335.152(a)(6) effective December 13, 1991; Title 31, TAC 335.112(a)(7) effective December 13, 1991.
4. Hazardous Waste Miscellaneous Units, December 10, 1987 [52 FR 46946].....	Title 31, TAC 305.50, effective August 4, 1989; Title 31, TAC 305.50(4), effective August 4, 1989; Title 31, TAC 331.3, effective August 4, 1989; Title 31, TAC 331.9, effective May 9, 1990; Title 31, TAC 335.1, effective August 4, 1989; Title 31, TAC 335.152(a), effective December 13, 1991; Title 31, TAC 335.152(a)(1), effective December 13, 1991; Title 31, TAC 335.152(a)(4), effective December 13, 1991; Title 31, TAC 335.152(a)(5), effective December 13, 1991; Title 31, TAC 335.152(a)(6), effective December 13, 1991; Title 31, TAC 335.152(a)(14), effective December 13, 1991.
5. Technical Correction; Identification and Listing of Hazardous Waste, April 22, 1988 [53 FR 13382].	Title 31 TAC 335.1, effective August 4, 1989.

C. Decision

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

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

D. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under section 3008, 3013 and 7003 of RCRA. Therefore, EPA is reserving amending part 272, subpart E, until 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 Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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

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

Dated: September 25, 1992.

Philip A. Charles,

Acting Regional Administrator.

[FR Doc. 92-24090 Filed 10-2-92, 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 271

[FRL-4516-9]

Arkansas; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arkansas has applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Arkansas' application and has made a decision, subject to public review and comment, that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arkansas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Arkansas' application for program revision is available for public review and comment.

DATES: Final authorization for the State of Arkansas shall be effective on December 4, 1992, unless EPA publishes a prior **Federal Register** action withdrawing this immediate final rule. All comments on Arkansas' program revision application must be received by the close of business November 4, 1992.

ADDRESSES: Copies of the Arkansas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209-8913, phone (501) 562-7444; and the U.S. EPA Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 655-6444. Written comments, referring to Docket Number AR-92-1, should be sent to the Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Program Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8533.

FOR FURTHER INFORMATION CONTACT: Janie Hernandez, Grants and Authorization Section, RCRA programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(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 Amendment 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. 6925(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 revision are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124, and 270

B. Arkansas

Arkansas initially received final authorization on January 25, 1985 (see 50 FR 1513) to implement its base hazardous waste management program. Arkansas received authorization for revision to its program on August 23, 1985, May 29, 1990 (See 55 FR 11192), and November 18, 1991 (See 56 FR 57593). On June 3, 1992, Arkansas submitted a final complete program revision application for additional program approvals. Today, Arkansas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed the State of Arkansas' application, and has made an immediate final decision that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Arkansas. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of Arkansas' application for program revision are available for inspection and copying at the locations indicated in the **"ADDRESSES"** section of this notice.

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

The Arkansas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260-262, 264-266, 268, and 270 that were published in the Federal Register (FR) through June 13, 1991. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Toxicity Characteristic; Hydrocarbon Recovery Operations, October 5, 1990, FR 40834–40837, as amended on February 1, 1991, at 56 FR 3978, and April 2, 1991, 1991, at 56 FR 13406–13411.	Arkansas Hazardous Waste Management Code (AHWMC) section 3a(2), as amended December 6, 1991, effective January 27, 1992.
2. Petroleum Refinery Primary and Secondary Oil/Water/Solid Separation Sludge Listings (F037 and F038), 55 FR 46354–46397, November 2, 1990, as amended on December 17, 1990, at 55 FR 51707.	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1992.
3. Wood Preserving Listings, 55 FR 50450–50490, December 6, 1990	AHWMC section 3a(1), (2), (3), (5), (6), (9), as amended December 6, 1991, effective January 27, 1992.
4. Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, 56 FR 3864–3928, January 31, 1991.	AHWMC section 3a(2), (3), (5), (6), (8), and (9), as amended December 6, 1991, effective January 27, 1992.
5. Toxicity Characteristic; Chloroflourocarbon Refrigerants, 56 FR 5910–5915, February 13, 1991.	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1991.
6. Burning of Hazardous Waste in Boilers and Industrial Furnaces, 56 FR 7134–7240, February 21, 1991.	AHWMC section 3a(1), (2), (5), (6), (7), and (9), as amended December 6, 1991, effective January 27, 1991.
7. Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, 56 FR 7567–7568, February 25, 1991.	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1992.
8. Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment, 56 FR 19290, April 26, 1991.	AHWMC section 3a(2), (5), (6), and (9) as amended December 6, 1991, effective January 27, 1992.
9. Administrative Stay for K069 Listing, 56 FR 19951, May 1, 1991	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1992.
10. Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), 56 FR 21955–21960, May 13, 1991.	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1992.
11. Mining Waste Exclusion III, 56 FR 27300–27330, June 13, 1991	AHWMC section 3a(2), as amended December 6, 1991, effective January 27, 1992.
12. Wood Preserving Listings, 56 FR 27332–27336, June 13, 1991	AHWMC section 3a(2), (5), and (6), as amended December 6, 1991, effective January 27, 1992.

Arkansas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

D. Decision

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

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

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Arkansas' program and for incorporation by reference of those provisions of Arkansas' statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. EPA is reserving amendment of part 272, subpart E.

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 Arkansas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Lists of Subjects in 40 CFR Part 271

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

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

Dated: September 14, 1992.

Joe D. Winkle,

Acting Regional Administrator.

[FR Doc. 92–24091 Filed 10–2–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 271

[FRL–4517–4]

Arkansas; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arkansas has applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Arkansas' application and has made a decision, subject to public review and comment, that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arkansas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Arkansas' application for program revision is available for public review and comment.

DATES: Final authorization for the State of Arkansas shall be effective on December 4, 1992, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Arkansas' program revision application must be received by the close of business on November 4, 1992.

ADDRESSES: Copies of the Arkansas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209–8913, phone (501) 562–7444 or the U.S. EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 655–6444. Written comments, referring to Docket Number AR–92–3, should be sent to Janie Hernandez, Arkansas Authorization Lead, Grants and Authorization Section (6H–HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–8533.

FOR FURTHER INFORMATION CONTACT: Janie Hernandez, Grants and Authorization Section, RCRA programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655–8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

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

B. Arkansas

Arkansas initially received final authorization on January 25, 1985, (See 50 FR 1513) to implement its base hazardous waste management program. Arkansas received authorization for revision to its program on August 23, 1985, May 29, 1990 (See 55 FR 11192), and November 18, 1991 (See 56 FR 57593). On June 5, 1992, Arkansas submitted a final complete program revision application for additional program approvals. Today, Arkansas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed the State of Arkansas' application, and has made an immediate final decision that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Arkansas. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of Arkansas' application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

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

The Arkansas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260–262, 264–266, 268, and 270 that were published in the **Federal Register** (FR) through August 10, 1990. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Identification and Listing of Hazardous Waste; Technical Correction, July 19, 1988 [53 FR 27162–27163].	Arkansas Hazardous Waste Management Code (AHWMC) 3a(2), 12a and 16b, as amended October 24, 1990, effective December 17, 1990.
2. Farmer Exemption: Technical Correction, July 19, 1988 [53 FR 27164–27165].	AHWMC 3a(3), (5), (6), (8), (9), as amended October 24, 1990, effective December 17, 1990.
3. Identification and Listing of Hazardous Waste; Treatability Studies Samples Exclusion, July 19, 1988 [53 FR 27290–27302].	AHWMC 3a(1), (2), as amended October 24, 1990, effective December 17, 1990.
4. Land Disposal Restrictions for First Third Scheduled Wastes, 53 FR 31138–31222, August 17, 1988, as amended on February 27, 1989 at 54 FR 8264–8266.	Arkansas Code of 1987, Annotated (Ark. Code Ann.) 8–7–205(3), 8–7–209(a)(1), (3), (5), (6), (11), b, 8–7–215, 8–7–216, 8–7–218, 8–7–303 and 8–7–308(4), as amended and effective in 1989. AHWMC 3a(5), (6), (7), (8), 4c and 13a(5), as amended October 24, 1990, effective December 17, 1990.
5. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems 53 FR 34079–34087, September 2, 1988.	Ark. Code Ann. 8–7–209(1), (5), (9), (11), and (b), as amended and effective in 1989. AHWMC 3a(1), (2), (3), (5), (6), and (9), as amended October 24, 1990, effective December 17, 1990.
6. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification, 53 FR 35412–35421, September 13, 1988.	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
7. Permit Modifications for Hazardous Waste Management Facilities, 53 FR 37912–37942, September 28, 1988, as amended on October 24, 1988, at 53 FR 41649.	Ark. Code Ann. 8–7–211, 8–7–218 as amended and effective in 1989. AHWMC 3a(5), (6), (9), (11) and 12, as amended October 24, 1990, effective December 17, 1990.
8. Statistical Methods for Evaluating Groundwater Monitoring Data from Hazardous Waste Facilities, 53 FR 39720–39731, October 11, 1988.	AHWMC 3a(5), as amended October 24, 1990, effective December 17, 1990.
9. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes; 53 FR 43878–43881, October 31, 1988.	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
10. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes, 53 FR 43881–43884, October 31, 1988.	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
11. Hazardous Waste Miscellaneous Units, Standards Applicable to Owners and Operators, 54 FR 615–617, January 9, 1989.	AHWMC 3a(5), (9), and 12, as amended October 24, 1990, effective December 17, 1990.
12. Amendment to Requirements for Hazardous Waste Incinerator Permits, 54 FR 4286–4288, January 30, 1989.	AHWMC 3a(9), as amended October 24, 1990, effective December 17, 1990.
13. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Procedures for Post-Closure Permitting, 54 FR 9596–9609, March 7, 1989.	Ark. Code Ann. 8–7–211, as amended and effective in 1989. AHWMC 3a(9), as amended October 24, 1990, effective December 17, 1990.
14. Land Disposal Restrictions Amendments to First Third Scheduled Wastes, 54 FR 18836–18838, May 2, 1989.	AHWMC 3a(5), (6), (7) and (8), as amended October 24, 1990, effective December 17, 1990.
15. Reportable Quantity Adjustment Methyl Bromide Production Wastes, 54 FR 41402–41408, October 6, 1988.	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.

Federal citation	State analog
16. Reportable Quantity Adjustment, 54 FR 50968–50979, December 11, 1989	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
17. Land Disposal Restrictions Amendments to Second Third Schedules Wastes, 54 FR 26594–26652, June 23, 1989.	AHWMC 3a(8), as amended October 24, 1990, effective December 17, 1990.
18. Delay of Closure Period for Hazardous Waste Management Facilities, 55 FR 33376–33398, August 14, 1989, as amended on June 26, 1990, at 55 FR 25976.	AHWMC 3a(5), (6), and (9), as amended October 24, 1990, effective December 17, 1990.
19. Mining Waste Exclusion I, 54 FR 36592–36642, September 1, 1989	AHWMC 3(a)(2), as amended October 24, 1990, effective December 17, 1990.
20. Land Disposal Restrictions; Correction for the First Third Scheduled Wastes, 54 FR 36967, September 6, 1989, as amended on June 13, 1990 at 55 FR 23935.	AHWMC 3a(7), and (8), as amended October 24, 1990, effective December 17, 1990.
21. Testing and Monitoring Activities, 54 FR 40260–40269, September 29, 1989	AHWMC 3a(1), and (2), as amended October 24, 1990, effective December 17, 1990.
22. Mining Waste Exclusion II, 55 FR 2322–2354, January 23, 1990	AHWMC 3a(1), (2) and (3), as amended October 24, 1990, effective December 17, 1990.
23. Modification of F019 Listing, 55 FR 5340–5342, February 14, 1990	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
24. Testing and Monitoring Activities; Technical corrections, 55 FR 8948–8950, March 9, 1990.	AHWMC 3a(1) as amended October 24, 1990, effective December 17, 1990.
25. Toxicity Characteristics Revision, 55 FR 11798–11877, March 29, 1990, as amended on June 29, 1990 at 55 FR 26986–26998, on August 2, 1990, at 55 FR 31387–31390, on August 10, 1990, at 55 FR 32733.	AHWMC 3a(2), (5), (6), (8), and 16e as amended October 24, 1990, effective December 17, 1990.
26. Listing of 1,1-Dimethylhydrazine Production Wastes, 55 FR 18496–18506, May 2, 1990.	AHWMC 3a(2), as amended October 24, 1990, effective December 17, 1990.
27. Criteria for Listing Toxic Wastes; Technical Amendment, 55 FR 18726, May 4, 1990.	Ark. Code Ann. 8–7–203(6) as amended and effective in 1989. AHWMC 3a(2), and 2a(5) as amended October 24, 1990, effective December 17, 1990.
28. HSWA Codification Rule, Double Liners; Correction, May 9, 1990	Ark. Code Ann. 8–7–218 as amended and effective in 1989. AHWMC 3a(5), and (6) as amended October 24, 1990, effective December 17, 1990.
29. Land Disposal Restrictions for Third Schedules Wastes, 55 FR 22520–22720, June 1, 1990.	AHWMC 3a(2), (5), (6), (8), and (9), as amended December 6, 1991, and effective January 27, 1992, and 13a(5) as amended October 24, 1990, effective December 17, 1990.
30. Organic Air Emission Standards for Process Vents and Equipment Leaks, 55 FR 25454–25519, June 21, 1990.	Ark. Code Ann. 8–4–303(1) and (2), 8–4–310(a)(1) and (2), 8–7–209(b), 8–7–210(d), 8–7–218(c) and 8–7–503(7), as amended and effective in 1989. 13a(5) as amended October 24, 1990, effective December 17, 1990. AHWMC 3a(1), (2), (5), (6), (9), 12, and 13a(3) as amended October 24, 1990, effective December 17, 1990.
31. Changes to Part 124 Not Accounted for by 48 FR 14146–14295, April 1, 1983, 48 FR 30113–30115, June 30, 1983, 53 FR 28118–28157, July 26, 1988, 53 FR 37396–37414, September 26, 1988, 54 FR 246–258, January 4, 1989.	AHWMC 3a(11), as amended October 24, 1990, effective December 17, 1990. Arkansas Department of Pollution Control and Ecology (ADPC&E) No. 8, dated and effective July 6, 1984, Ark. Code Ann. 8–4–218 through 8–4–229, as amended and effective in 1989.
32. Standards for Generators of Hazardous Wastes, 53 FR 45089–45093, November 8, 1988.	AHWMC 3a(3), as amended October 24, 1990, effective December 17, 1990.
33. Permit Conditions to Protect Human Health and the Environment	AHWMC 3a(9) & 14, as amended September 23, 1988, effective October 31, 1988.

On November 18, 1991, (56 FR 57593) the EPA granted final authorization for the State of Arkansas to operate the hazardous waste program. However, EPA did not intend to authorize the State of Arkansas for the Resource Conservation and Recovery Act (RCRA) section 3004(t) and (3). These provisions created a Federal cause of action for any person with a claim arising from conduct for which financial assurances are required under RCRA. This action may be asserted directly against the guarantor of the assurances if (1) the owner or operator of the facility is in bankruptcy or other similar proceedings under Federal law, or (2) the person with the claim is not likely to obtain jurisdiction over the facility owner operator in either Federal or State court. The cause of action created by Section 3004(t) is always available in delegable States. States are welcome to create parallel causes of action viable in State courts, but to the extent that States do so, the State cause of action cannot limit the availability of the Federal action. Therefore, EPA did not propose to authorize Arkansas for this provision.

Arkansas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

D. Decision

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

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

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Arkansas' program and for incorporation by reference of those provisions of Arkansas' statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. EPA is reserving amendment of part 272, subpart E.

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 Arkansas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Lists of Subjects in 40 CFR Part 271

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

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

Dated: September 25, 1992.

Philip A. Charles,

Acting Regional Administrator.

[FR Doc. 92-24092 Filed 10-2-92; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6950

[NM-930-4214-10; NMNM 86060]

Withdrawal of Public Land for the Berrendo Camp Administrative Site; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 40 acres of public land from surface entry and mining for a period of 20 years for the Bureau of Land Management to relocate, establish, and protect the Berrendo Camp Administrative Site. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: October 5, 1992.

FOR FURTHER INFORMATION CONTACT: Georgiana E. Armijo, BLM New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico, 87502-7115, 505-438-7594.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the Bureau of Land Management's Berrendo Camp Administrative Site:

New Mexico Principal Meridian

T. 23 S., R. 15 E.,
Sec. 9, NW¼NW¼.

The area described contains 40 acres in Otero County.

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

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: September 21, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-24039 Filed 10-2-92; 8:45 am]

BILLING CODE 4310-FB-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Part 57

RIN 0905-AD63

Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships, and Student Loans

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final regulation.

SUMMARY: This final rule revises regulations which govern various Public Health Service (PHS) health professions and nursing training grant and loan programs to: Bring these programs into conformity with statutory amendments made to the various sections of the PHS Act under titles VII and VIII, include other changes to bring the regulations into line with current Department regulatory and grant policies; amend regulatory sections that contain information collection requirements with current Office of Management and Budget (OMB) approval numbers; and make other changes which are editorial or clarifying in nature.

The affected regulations are amended primarily by the following statutes: the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Drug-Free Workplace Act of 1988, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, and the National Health Service Corps Revitalization Amendments of 1990.

EFFECTIVE DATE: October ~~1~~, 1992.

FOR FURTHER INFORMATION CONTACT: Shirley L. Johnson, Director, Office of Program Development, Bureau of Health Professions, Health Resources and Services Administration, room 8A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443-1590.

SUPPLEMENTARY INFORMATION: This final rule amends various Public Health Service (PHS) health professions and nursing training grant and loan regulations under title 42, part 57, primarily to implement the provisions of titles VI and VII of Public Law 100-607, the Health Professions Reauthorization Act of 1988 and the Nursing Shortage Reduction and Education Extension Act of 1988, respectively. The subparts listed below discuss the specific amendments made to the various sections of the PHS Act by: (1) Titles VI or VII of Public Law 100-607, as appropriate, (2) changes regarding current Department regulatory and grant policies, (3) changes regarding current Office of Management and Budget (OMB) approval numbers in those sections of the subparts that contain information collection requirements, (4) deletion of OMB control numbers in those sections that refer only to clearance of forms and not to clearance of regulatory language, and (5) other changes for consistency in the title 42, part 57 regulations which are editorial or clarifying in nature.

Other amendments which affect the various regulations under title 42, part 57 have been made in recent years by: (1) Public Law 100-690, the Drug-Free Workplace Act of 1988, and (2) Public Law 101-121, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990. These statutory amendments, cited below, are implemented through the following CFR revisions:

1. A new CFR citation to subparts C, D, F, H, L, Q, R, Y, Z, CC, DD, EE, FF, NN, and OO to bring these programs into compliance with governmentwide requirements established for this Department under 45 CFR part 76, in accordance with Public Law 100-690, title V, subtitle D, the Drug-Free Workplace Act of 1988, enacted on November 18, 1988, and a Notice and Interim-Final Rule, published in the Federal Register on January 31, 1989 (54 FR 4946). A Final rule was published in the Federal Register on May 25, 1990 (55 FR 21681). This CFR citation will be cited in the amendatory language as "45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide

Requirements for Drug-Free Workplace (Grants)".

2. A new CFR citation to subparts F, H, L, Q, R, V, Y, Z, AA, CC, DD, EE, FF, NN, and OO to bring these programs into compliance with governmentwide requirements established for this Department under 45 CFR part 93, in accordance with Public Law 101–121, section 319, the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, enacted on October 23, 1989, and an Interim-Final Rule, published in the **Federal Register** on February 26, 1990 (55 FR 6736). This CFR citation will be cited in the amendatory language as "45 CFR part 93—New restrictions on lobbying".

Another amendment is made to several subparts by title IV of Public Law 101–597, the National Health Service Corps Revitalization Amendments of 1990. Section 401 of Public Law 101–597 amended the term "health manpower shortage area" to read "health professional shortage area". This amendment is reflected in the following subparts: H, I, AA, and FF.

Several subparts have footnotes in the "Application" sections indicating addresses where training grant or student loan application forms and instructions may be obtained. The Department is removing these footnotes. Training grant application forms, materials, and instructions may be obtained as announced in **Federal Register** program announcements for periodic training grant award cycles. Student loan applications and instructions are directly forwarded to applicants or eligible active institutions during appropriate application cycles. Amendments to remove such footnotes are reflected in the following subparts: C, D, F, H, L, S, V, Y, Z, AA, FF, OO, and PP.

Further, this preamble includes discussions on those subparts that are no longer viable programs (subparts G, J, K, M, N, O, II, and JJ) where the legislative authority has expired or has been repealed and, therefore, are being removed and placed in reserve status in the CFR.

The following programs, implemented by the Bureau of Health Professions, Health Resources and Services Administration, codified at 42 CFR part 57, are discussed below according to the subparts, section numbers, and headings affected.

Subpart C—Health Professions Student Loans

This final rule amends subpart C governing the Health Professions Student Loan program under sections 740–747 of the PHS Act to:

1. Revise § 57.203, entitled "Application by school.", by:

(a) Removing footnote 1 in paragraph (a) providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations, and

(b) Removing the parenthetical phrase at the end of the section citing an outdated OMB control number.

2. Revise § 57.208, entitled "Health professions student loan promissory note and disclosure requirements.", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

3. Revise § 57.210, entitled "Repayment and collection of health professions student loans.", by removing the two parenthetical phrases at the end of the section and adding in their place a parenthetical phrase providing the current OMB control numbers.

4. Revise § 57.213a, entitled "Loan cancellation reimbursement.", by removing the parenthetical phrase at the end of the section citing an outdated OMB control number.

5. Revise § 57.215, entitled "Records, reports, inspection, and audit.", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

6. Revise § 57.216, entitled "What additional Department regulations apply to schools?", by revising the footnote number and the footnote reference to "45 CFR part 83".

Subpart D—Nursing Student Loans

This final rule amends subpart D governing the Nursing Student Loan program under sections 835–842 of the PHS Act to:

1. Revise § 57.303, entitled "Application by school.", by:

(a) Removing footnote 1 in paragraph (a) providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations; and

(b) Removing the parenthetical phrase at the end of the section citing an outdated OMB control number.

2. Revise § 57.308, entitled "Nursing student loan promissory note.", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

3. Revise § 57.310, entitled "Repayment and collection of nursing student loans.", by:

(a) Removing the two parenthetical phrases at the end of the section and adding in their place a parenthetical phrase providing the current OMB control number; and

(b) Revising the footnote number and the footnote reference to paragraph (a)(1).

4. Revise § 57.313, entitled "Loan cancellation for full-time employment as a registered nurse.", by removing the parenthetical phrase at the end of the section citing an outdated OMB control number.

5. Revise § 57.314, entitled "Repayment of loans made after November 17, 1971, for failure to complete a program of study.", by revising the footnote number and the footnote reference to the section heading.

6. Revise § 57.315, entitled "Records, reports, inspection, and audit.", by revising the parenthetical phrase at the end of the section providing the current OMB control number.

7. Revise § 57.316, entitled "What additional Department regulations apply to schools.", by revising the footnote number and the footnote reference to "45 CFR part 83".

Subpart F—Grants for Nurse Anesthetist Traineeships

This final regulation amends subpart F governing Grants for Nurse Anesthetist Traineeships under section 831(a) of the PHS Act to:

1. Remove the "Effective Date Note" at the end of each of the section texts for: § 57.509, entitled "Who is eligible for financial assistance as a trainee?"; § 57.510, entitled "What are the requirements for traineeships and the appointment of trainees?"; and § 57.512, entitled "Termination of traineeships."; and add the OMB control numbers in these sections which contain information collection requirements.

2. Revise § 57.502, entitled "Definitions.", to amend the following terms:

(a) The definition of "Nurse anesthetist training program" to reflect the current name of the Council on Accreditation of Nurse Anesthesia Educational Programs; and

(b) The definitions of "Nonprofit" and "Secretary" to reflect current Department policy language for consistency in title 42, part 57 definitions.

3. Revise § 57.503, entitled "Who is eligible to apply for a grant?", by removing footnote 1 providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

4. Revise § 57.505, entitled "How long does grant support last?", to amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section.

5. Revise § 57.507, entitled "For what purposes may grant funds be spent?", to amend paragraph (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

6. Revise § 57.508, entitled "What financial support is available to trainees?", to amend:

(a) Paragraph (b) to reflect that the amount of stipends awarded to the trainee does not exceed the limits established by the "Public Health Service"; and

(b) Paragraph (c) by removing the phrase "on an individual basis when prior approval has been obtained from the Secretary" regarding transportation allowance to trainees for travel to field training, to comply with established PHS grants policy.

7. Revise § 57.509, entitled "Who is eligible for financial assistance as a trainee?", to revise paragraph (a) concerning an eligible individual's citizenship status, the Immigration and Naturalization Service policy as it relates to the admission into the United States, its territories and possessions, to reflect current Department policy language for consistency in title 42, part 57 regulations.

Subpart G—Scholarship Grants to Schools of Medicine, Osteopathy, Dentistry, Optometry, Podiatry, Pharmacy, and Veterinary Medicine

Section 780(a) of the PHS Act, 42 U.S.C. 295g, as it was in effect for Scholarship Grants to Schools of Medicine, Osteopathy, Dentistry, Optometry, Podiatry, Pharmacy, and Veterinary Medicine was repealed by section 409(a) of Public Law 94–484, the Health Professions Educational Assistance Act of 1976 (90 Stat. 2290), effective October 1, 1976, which repealed subpart 1 of part F of title VII of the PHS Act. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart G, consisting of §§ 57.601–57.613, and placing it in reserve status.

Subpart H—Grants for Physician Assistant Training Programs

This final regulation amends subpart H governing Grants for Physician Assistant Training Programs under section 788(d) of the PHS Act to:

1. Revise the section number of the Act from "783" to "788(d)" and the United States Code citation from "(42 U.S.C. 295g–3(a)(1))" to "(42 U.S.C. 295g-8(d))" wherever they appear in subpart H, as redesignated, in accordance with Public Law 100–607.

2. Change the word "osteopathy" wherever it appears in subpart H to read "osteopathic medicine", in accordance with Public Law 100–607.

3. Add or change the order of the words "nonprofit private" to read "private nonprofit" wherever they appear in subpart H when referring to a school or entity to reflect current Department policy language for consistency in title 42, part 57 regulations.

4. Change the term "health manpower shortage area" (or "areas") wherever it appears in subpart H to read "health professional shortage area" (or "areas"), in accordance with Public Law 101–597.

5. Revise § 57.702, entitled "Definitions.", to revise the definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

6. Revise § 57.703, entitled "Eligibility.", to add the words "is eligible to" before the word "apply" to reflect current Department policy language.

7. Revise § 57.704, entitled "Application.", to:

(a) Revise paragraph (a) with current Department grants policy language to reflect that eligible applicants shall submit an application as the Secretary may prescribe. Paragraph (a) is further revised by removing footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations; and

(b) Remove paragraph (c)(4) of this section from the application requirements. This requirement states, "Evidence that all applicable requirements of section 1513(e) of the Act have been met." Section 1513(e) of the PHS Act (42 U.S.C. 300*l*–2(e)), "Approval of the Use of Federal Funds," under title XV, National Health Planning and Development, was repealed by section 701(a) of Public Law 99–660 (100 Stat. 3799), effective January 1, 1987.

8. Revise § 57.705, entitled "Project requirements.", to revise paragraph (b)(2) to provide that the program must have received a "Letter of Review" rather than a "Letter of Support" and to provide the current title of the Accreditation Review Committee.

9. Revise § 57.706, entitled "Evaluation of applications.", to remove language from paragraph (a)(4) which reads "including those identified by the Health Systems Agency and/or State Health Planning and Development Agency of the State or States in which the project will encourage graduates to practice;". Health system agency reviews for training grant programs are no longer required due to the repeal of section 1513(e) of the PHS Act by Public Law 99–660 as stated above (see amendments to § 57.704(c)(4)).

10. Revise § 57.707, entitled "Grant award.", to amend paragraphs (a)(2), (a)(3), and (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

11. Revise § 57.709, entitled "Purposes for which grant funds must be spent?", to amend paragraph (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

12. Revise § 57.711, entitled "Records, audit, and inspection.", to reflect current Department policy language by:

(a) Revising the heading of the section to read "What other audit and inspection requirements apply to grantees?"; and

(b) Removing the word "recordkeeping" in the section text.

Subpart I—Programs for the Training of Physician Assistants

This final regulation amends subpart I governing the Programs for the Training of Physician Assistants under section 701(8)(B) of the PHS Act to:

1. Change the term "Health manpower shortage area" (or "areas") wherever it appears in subpart I to read "Health professional shortage area" (or "areas"), in accordance with Public Law 101–597.

2. Change the word "osteopathy" wherever it appears in subpart I to read "osteopathic medicine", in accordance with Public Law 100–607.

3. Revise § 57.803, entitled "Requirements.", to revise paragraph (a)(2) to provide that a program for the training of physician assistants must have received a "Letter of Review" rather than a "Letter of Support" and to provide the current title of the Accreditation Review Committee.

Subpart J—Scholarship Grants to Schools of Nursing

Section 845 (formerly section 860(d)) of the PHS Act, 42 U.S.C. 297j, as it was in effect for Scholarship Grants to Schools of Nursing was repealed by section 9 of Public Law 99–92, the Nurse Education Amendments of 1985 (99 Stat. 400), effective October 1, 1985, which repealed subpart III of part B of title VIII of the PHS Act. The Department is

therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart J, consisting of §§ 57.901–57.913, and placing it in reserve status.

Subpart K—Grants to Schools of Nursing for the Support of Their Educational Programs

Section 810 of the PHS Act, 42 U.S.C. 296(e), as it was in effect for Grants to Schools of Nursing for the Support of Their Educational Programs was repealed by section 9 of Public Law 99–92, the Nurse Education Amendments of 1985 (99 Stat. 400), effective October 1, 1985. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart K, consisting of §§ 57.1001–57.1014, and placing it in reserve status.

Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry

This final regulation amends subpart L governing Grants for Residency Training and Advanced Education in the General Practice of Dentistry under section 785 of the PHS Act to:

1. Revise the section number of the Act from "786(b)" to "785" wherever it appears in subpart L, as redesignated, and the United States Code citation from "(42 U.S.C. 295g–6(b))" to "(42 U.S.C. 295g–5)", in accordance with Public Law 100–607.

2. Revise § 57.1101, entitled "To what projects do these regulations apply?", to add the words "public or private nonprofit" regarding the reference to schools of dentistry.

3. Revise § 57.1102, entitled "Definitions.", to revise the definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

4. Revise § 57.1103, entitled "What entities are eligible to apply for a grant?", to provide current Department policy language to reflect that any "public or private nonprofit" school of dentistry is "eligible" to apply for a grant.

5. Revise § 57.1104, entitled "How must an entity apply for a grant?", to revise paragraph (a) with current Department grants policy language to reflect that each entity shall submit an application as the Secretary may prescribe. Paragraph (a) is further revised by removing footnote [1] providing the address for obtaining applications and instructions to reflect Department regulatory policy for consistency in title 42, part 57 regulations.

6. Revise § 57.1107, entitled "How will grant awards be made?", to amend paragraphs (a) (2), (3), and (4) and paragraph (b) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

7. Revise § 57.1109, entitled "Purposes for which grant funds may be spent.", to amend paragraph (b) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

8. Revise § 57.1111, entitled "What recordkeeping, audit, and inspection requirements apply to grantees?", to:

(a) Remove the word "recordkeeping" in the section heading and text to reflect current Department policy language; and

(b) Add at the end of the section the OMB control number regarding information collection requirements for this section.

9. Revise § 57.1112, entitled "What additional conditions apply to grantees?", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

Subpart M—Financial Distress Grants to Health Professions Schools

Section 788(b) of the PHS Act, 42 U.S.C. 295g–8(b), as it was in effect for Financial Distress Grants to Health Professions Schools was repealed by section 2744(a)(1) of Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 923). Concurrently, effective August 13, 1981, section 2745 of Public Law 97–35 (95 Stat. 925) added section 788A of the PHS Act (42 U.S.C. 295g–8a), Financial Distress Grants. Subsequently, section 220(f)(1) of Public Law 99–129, the Health Professions Training Assistance Act of 1985 (99 Stat. 544) repealed section 788A (42 U.S.C. 295g–8a). The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart M, consisting of §§ 57.1201–57.1212, and placing it in reserve status.

Subpart N—Grants for Dental Team Practice Training Program

Section 2740(c)(1) of Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981 (95 Stat 922), amended section 783(a) to authorize provisions only for physician assistant training. Concurrently, section 2744 of Public Law 97–35 (95 Stat. 924) restructured the provisions in section 783(a)(3) for Dental Team Practice Training, and the provisions were subsumed under the authority of redesignated section 788(b), as it was in effect for Conversion and Curriculum Grants for Various Health Professions, 42 U.S.C. 295g–8. Subsequently, the provisions under section 788(b) were amended by Public Law 99–129, the Health Professions Training Assistance Act of 1985, to provide for more broad provisions in health promotion and disease prevention, various curriculum development and training, and health professions initiatives. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart N, consisting of §§ 57.1301–57.1314, and placing it in reserve status.

Subpart O—Grants To Assist New Schools of Medicine, Osteopathy, and Dentistry

Section 771(a) of the PHS Act, 42 U.S.C. 295f–1, as it was in effect for Grants to Assist New Schools of Medicine, Osteopathy, and Dentistry was "stricken out" by section 502 of Public Law 94–484, the Health Professions Educational Assistance Act of 1976 (90 Stat. 2293), effective with respect to fiscal years beginning after 9/30/77. The authority was broadened and the eligibility was extended to schools of medicine, osteopathy, dentistry, public health, veterinary medicine, optometry, podiatry, and pharmacy (MODPVOPP) (as it was in effect for section 770, as amended, Capitation Grants). Concurrently, section 801 of Public Law 94–484 (90 Stat. 2319) amended part F of title VII by adding section 788(a) of the PHS Act (42 U.S.C. 294g–8(a)), a new general authority, effective in FY 1978, for start-up assistance to schools of MODPVOPP. Subsequently, section 2744 of Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 923) repealed section 788(a) except to allow phase-out of existing grants. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart O, consisting of §§ 57.1401–57.1415, and placing it in reserve status.

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine

This final regulation amends subpart Q governing Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine under section 786(a) of the PHS Act to:

1. Change the word "osteopathy" wherever it appears in subpart Q to read "osteopathic medicine", in accordance with Public Law 100–607.

2. Change the words "medical or osteopathic" wherever it appears in subpart Q to read "medical (M.D. or

D.O.)", in accordance with Public Law 100–607.

3. Revise § 57.1602, entitled "Definitions.", to amend the following terms:

(a) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

(b) The definition of "School of medicine or osteopathy" to revise the name of the term as reflected in item #1 above in accordance with Public Law 100–607 and to reflect current Department policy language for consistency in title 42, part 57 definitions.

(c) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" the phrase "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States.

4. Revise § 57.1603, entitled "Who is eligible to apply for a grant?", by adding a paragraph (6) reflecting current Department grants policy language that eligible applicants shall submit an application as the Secretary may prescribe.

5. Revise § 57.1604, entitled "What requirements must a project meet?", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

6. Revise § 57.1606, entitled "How long does grant support last?", to reflect current Department grants policy language for consistency in title 42, part 57 regulations to:

(a) Amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section;

(b) Amend paragraph (c) by adding a sentence regarding continuation support; and

(c) Remove paragraph (d) concerning federally obligated grant funds, and relocate it in § 57.1607, entitled "For what purposes may grant funds be spent?".

7. Revise § 57.1607, entitled "For what purposes may grant funds be spent?", by adding a paragraph (c) on the expenditure of any balance of federally obligated grant funds to reflect current Department grants policy language.

8. Revise § 57.1609, entitled "What other audit and inspection requirements apply to grantees?", by adding at the end of the section a parenthetical phrase providing the current OMB control number regarding information collection requirements for this section.

Subpart R—Grants for the Establishment of Departments of Family Medicine

This final regulation amends subpart R governing Grants for the Establishment of Departments of Family Medicine under section 780 of the PHS Act to:

1. Change the word "osteopathy" wherever it appears in subpart R to read "osteopathic medicine", in accordance with Public Law 100–607.

2. Revise § 57.1702, entitled "Definitions.", to amend the following terms:

(a) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

(b) The definition of "School of medicine or osteopathy" to revise the name of the term as reflected in item #1 above, in accordance with Public Law 100–607, and to reflect current Department policy language for consistency in title 42, part 57 definitions.

(c) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" the phrase "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States.

3. Revise § 57.1703, entitled "Who is eligible to apply for a grant?", by adding a second sentence to the section text reflecting current Department grants policy language that eligible applicants shall submit an application as the Secretary may prescribe.

4. Revise § 57.1704, entitled "Program requirements." by:

(a) Removing the phrase "required in § 57.1704(f)" in the first sentence of paragraph (f) as redundant language;

(b) Amending paragraph (g) by revising the phrase "required in § 57.1704(f) of this section" to clarify that the project must meet a requirement in paragraph (f) of this section; and

(c) Adding at the end of the section the OMB control number regarding information collection requirements for this section.

5. Revise § 57.1706, entitled "How long does grant support last?", to reflect current Department grants policy language for consistency in title 42, part 57 regulations to:

(a) Amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section;

(b) Amend paragraph (c) by adding a sentence regarding continuation support; and

(c) Remove paragraph (d) concerning federally obligated grant funds, and relocate it in § 57.1707, entitled "For what purposes may grant funds be spent?".

6. Revise § 57.1707, entitled "For what purposes may grant funds be spent?", by adding a paragraph (c) on the expenditure of any balance of federally obligated grant funds to reflect current Department grants policy language.

7. Revise § 57.1709, entitled "What other audit and inspection requirements apply to grantees?", by adding at the end of the section a parenthetical phrase providing the OMB control number regarding information collection requirements for this section.

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

This final rule amends subpart S governing the program for Educational Assistance to Individuals from Disadvantaged Backgrounds under section 787 of the PHS Act to:

1. Revise § 57.1802, entitled "Definitions.", to amend the definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

2. Revise § 57.1803, entitled "Who is eligible to apply for a grant?", by removing footnote [1] in paragraph (a) providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

3. Revise § 57.1805, entitled "Program requirements.", to amend paragraph (a) (2) to:

(a) Add statutory language clarifying the need to provide preliminary education to individuals from disadvantaged backgrounds "for a period prior to their entry into a regular course of education designed to assist them to complete successfully such regular course of education" in a health professions school or school of allied health; and

(b) Revise the second sentence defining preliminary education to clarify that preliminary education is designed to expand the academic ability of such individuals during their "preprofessional training."

4. Revise § 57.1809, entitled "What additional Department regulations apply to grantees?", by revising the footnote number and the footnote reference to "45 CFR part 83".

Subpart V—Grants for Centers for Excellence

This final regulation amends subpart V governing Grants for Centers for Excellence under section 782 of the PHS Act to:

1. Revise the heading of subpart V to read "Grants for Centers of Excellence", in accordance with the Disadvantaged Minority Health Improvement Act of 1990, Public Law 101–527.

2. Revise § 57.2102, entitled "Definitions.", to amend the following terms:

(a) "Health professions school" by:

(1) Changing the word "osteopathy" to "osteopathic medicine" and the word "podiatry" to "podiatric medicine", in accordance with Public Law 100–607; and

(2) Adding a comma and the words "or graduate programs in clinical psychology" after the words "in health administration" to reflect the current definition as set forth in section 701(4) of the PHS Act.

(b) "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

3. Revise § 57.2103, entitled "Who is eligible to apply for a grant?" to remove footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

4. Revise § 57.2107, entitled "For what purposes may grants funds be spent?", to amend paragraph (b) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

5. Revise § 57.2108, entitled "What additional Department regulations apply to schools?", by revising the footnote number and the footnote reference to "45 CFR part 83".

6. Revise § 57.2109, entitled "What other audit and inspection requirements apply to grantees?", to remove the "Effective Date Note" at the end of the section and add in its place a parenthetical phrase providing the current OMB control number regarding information collection requirements for this section.

Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs

This final regulation amends subpart Y governing Grants for Nurse Practitioner and Nurse Midwifery Programs under section 822(a) of the PHS Act to:

1. Change the order of the words "nonprofit private" to read "private nonprofit" wherever they appear in subpart Y when referring to a school or entity to reflect current Department policy language for consistency in title 42, part 57 regulations.

2. Revise § 57.2402, entitled "Definitions.", to amend the definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

3. Revise § 57.2404, entitled "Application.", to:

(a) Remove footnote [1] in paragraph (a) providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations; and

(b) Remove paragraph (c)(8) from the application requirements. This requirement states, "Evidence that all applicable requirements of section 1513(e) of the Act have been met." Section 1513(e) of the PHS Act (42 U.S.C. 300*l*–2(e)), "Approval of the Use of Federal Funds," under title XV, National Health Planning and Development, was repealed by section 701(a) of Public Law 99–660 (100 Stat. 3799), effective January 1, 1987.

4. Revise § 57.2406, entitled "Evaluation and grant awards." to revise paragraph (a)(2)(i) to change the term "health manpower shortage areas" to read "health professional shortage areas", in accordance with Public Law 101–597.

5. Revise § 57.2408, entitled "Expenditure of grant funds.", to amend paragraph (b) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

6. Revise the appendix to subpart Y, paragraph C.1., Student Enrollment, to change the enrollment of the number of full-time equivalent students in each class from "eight" to "six", in accordance with Public Law 100–607.

Subpart Z—Grants for Advanced Nurse Education Programs

This final regulation amends subpart Z governing Grants for Advanced Nurse Education Programs under section 821 of the PHS Act to:

1. Revise § 57.2502, entitled "Definitions.", to amend the following terms:

(a) The definition of "Council" to reflect the current name of the Advisory Council on Nurses Education;

(b) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions; and

(c) The definition of "State" to reflect current Department policy language for consistency in title 42, part 57 definitions.

2. Revise § 57.2504, entitled "Application.", to:

(a) Revise paragraph (a) with current Department grants policy language regarding the submission of applications at such time as the Secretary may prescribe;

(b) Remove footnote [1] in paragraph (a) providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations; and

(c) Remove the "Editorial Note" at the end of the section.

3. Revise § 57.2506, entitled "Expenditure of grant funds.", to amend paragraph (b) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

Subpart AA—Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs

This final regulation amends subpart AA governing Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs under section 822(b) of the PHS Act to:

1. Change the order of the words "nonprofit private" to read "private nonprofit" wherever it appears in subpart AA to reflect current Department policy language for consistency in title 42, part 57 regulations.

2. Change the term "health manpower shortage area" (or "areas") wherever it appears in subpart AA to read "health professional shortage area" (or "areas"), in accordance with Public Law 101–597.

3. Revise § 57.2602, entitled "Definitions.", to amend the term "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

4. Revise § 57.2603, entitled "Who is eligible to apply for a grant?", by removing footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

5. Revise § 57.2607, entitled "For what purposes may grant funds be spent?", to amend paragraph (c) to reflect current Department grants policy language for

consistency in title 42, part 57 regulations.

6. Revise § 57.2610, entitled "What are the requirements for traineeships and the appointment of trainees?", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

7. Revise § 57.2612, entitled "Termination of traineeships.", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

8. Revise § 57.2613, entitled "What must a trainee agree to do in return for traineeship support?", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

9. Revise § 57.2615, entitled "When can the practice or payment obligation be waived or suspended?", to remove the parenthetical phrase at the end of the section citing an outdated OMB control number.

10. Revise § 57.2616, entitled "What additional Department regulations apply to schools?", by revising the footnote number and the footnote reference to "45 CFR part 83".

Subpart CC—Scholarships for First-Year Students of Exceptional Financial Need

This final regulation amends subpart CC governing Scholarships for First-Year Students of Exceptional Financial Need under section 758 of the PHS Act to:

1. Revise the heading of subpart CC by removing the words "First-Year" to reflect the statutory change to make students in all class-years eligible for scholarships, in accordance with Public Law 100–607.

2. Revise the word "osteopathy" wherever it appears in subpart CC to read "osteopathic medicine", in accordance with Public Law 100–607.

3. Revise § 57.2801, entitled "To what programs do these regulations apply?, to remove the words "first-year" to reflect that students in all class-years are eligible for scholarships, in accordance with Public Law 100–607.

4. Revise § 57.2802, entitled "Definitions.", to amend the following terms:

(a) The definition of "First year of study" is removed to reflect the current authority to make students in all class-years eligible for scholarships.

(b) The definition of "Health professions school" or "school" by revising the word "podiatry" to "podiatric medicine", in accordance with Public Law 100–607, and to make other minor changes to reflect current Department policy language for consistency in title 42, part 57 definitions.

(c) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" the phrase "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States. Other minor changes are made to reflect current Department policy language for consistency in title 42, part 57 definitions.

5. Revise § 57.2803, entitled "How to apply for a grant.", to:

(a) Revise paragraph (a) with current Department grants policy language to reflect that eligible applicants shall submit an application as the Secretary may prescribe; and

(b) Add at the end of the section a parenthetical phrase providing the OMB control number regarding information collection requirements for this section.

6. Revise § 57.2804, entitled "Students eligible for scholarships.", to:

(a) Revise paragraph (a)(1) concerning an eligible individual's citizenship status, the Immigration and Naturalization Service policy as it relates to the admission into the United States, its territories and possessions, to reflect current Department policy language for consistency in title 42, part 57 regulations;

(b) Revise paragraph (a)(2) to remove the words "in the first-year of study" to reflect that students in all class-years are eligible for scholarships, in accordance with Public Law 100–607;

(c) Remove the phrase in paragraph (b)(2) "and published under 45 CFR 144.13", since it is no longer used by the Department of Education. The need analysis methodologies are now authorized under part F of title IV of the Higher Education Act of 1965, as mended; and

(d) Add at the end of the section a parenthetical phrase providing the OMB control number regarding information collection requirements for this section.

7. Revise § 57.2805, entitled "Amount of scholarship award.", to remove the phrase "for the first year of study" to reflect that a portion of the scholarship award will consist of the tuition "in such school year".

8. Revise § 57.2806, entitled "How is the amount of grant award determined?", to remove the phrase "for the first year of study at the school" in paragraph (c)(1) to reflect the current authority regarding the award of scholarship funds to any student with no financial resources.

9. Revise § 57.2808, entitled "What additional Departmental regulations apply to grantees?" to revise the word "Departmental" in the section heading to "Department".

10. Revise § 57.2809, entitled "What other records, audit, and inspection requirements apply to grantees?" to add at the end of the section a parenthetical phrase providing the current OMB control number regarding information collection requirements for this section.

Subpart DD—Financial Assistance for Disadvantaged Health Professions Students

This final regulation amends subpart DD governing Financial Assistance for Disadvantaged Health Professions Students under section 787 (a)(2)(F) and (b) of the PHS Act to:

1. Revise § 57.2902, entitled "Definitions.", to amend the definition of "State" by inserting after the "Trust Territory of the Pacific Islands" the phrase "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States. Additionally, the footnote to the definition of "State" is removed.

2. Revise § 57.2904, entitled "Eligibility and selection of aid recipients.", to:

(a) Revise paragraph (a)(1) concerning an eligible individual's citizenship status, the Immigration and Naturalization Service policy as it relates to the admission into the United States, its territories and possessions, to reflect current Department policy language for consistency in title 42, part 57 regulations; and

(b) Revise paragraph (b)(1)(i) by removing the phrase "and published under 34 CFR 674.13", since it is no longer used by the Department of Education. The need analysis methodologies are now authorized under part F of title IV of the Higher Education Act of 1965, as amended.

Subpart EE—Grants for Residency Training in Preventive Medicine

This final regulation amends subpart EE governing Grants for Residency Training in Preventive Medicine under section 788(c) of the PHS Act to:

1. Revise the section number of the Act from "793" to "788(c)" and the United States Code citation from "(42 U.S.C. 295h-1c)" to "(42 U.S.C. 295g-8(e))" wherever they appear in subpart EE, as redesignated, in accordance with Public Law 100–607.

2. Change the word "osteopathy" wherever it appears in subpart EE to read "osteopathic medicine", in accordance with Public Law 100–607.

3. Revise § 57.3002, entitled "Definitions.", to amend the following terms:

(a) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions; and

(b) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" the phrase "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States.

4. Revise § 57.3003, entitled "Who is eligible to apply for a grant?", to:

(a) Amend the section text to reflect current Department grants policy language for consistency in title 42, part 57 regulations; and

(b) Revise the parenthetical phrase at the end of the section to reflect the current OMB control number regarding information collection requirements for this section.

5. Revise § 57.3004, entitled "Project requirements.", to remove the "Editorial Note" at the end of the section and add in its place a parenthetical phrase providing the current OMB control number regarding information collection requirements for this section.

6. Revise § 57.3006, entitled "How long does grant support last?", to reflect current Department grants policy language for consistency in title 42, part 57 regulations to:

(a) Amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section;

(b) Amend paragraph (c) by adding a sentence regarding continuation support; and

(c) Remove paragraph (d) concerning federally obligated grant funds, and relocate it in § 57.3008, entitled "For what purposes may grant funds be spent?".

7. Revise § 57.3007, entitled "How is the amount of the grant award determined?", to remove the "Editorial Note" at the end of the section and add in its place a parenthetical phrase providing the OMB control number regarding information collection requirements for this section.

8. Revise § 57.3008, entitled "For what purposes may grant funds be spent?", by adding a paragraph (c) on the expenditure of any balance of federally obligated grant funds to reflect current Department grants policy language.

9. Revise § 57.3010, entitled "What other audit and inspection requirements apply to grantees?", to remove the "Editorial Note" at the end of the section and add in its place a parenthetical phrase providing the OMB control number for information collection requirements for this section.

Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics

This final regulation amends subpart FF governing Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics under section 784 of the PHS Act to:

1. Change the word "osteopathy" wherever it appears in subpart FF to read "osteopathic medicine", 'in accordance with Public Law 100–607.

2. Revise § 57.3102, entitled "Definitions.", to:

(a) Change the term "Health manpower shortage area" to read "Health professional shortage area", in accordance with Public Law 101–597.

(b) Revise the definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions.

3. Revise § 57.3103, entitled "Who is eligible to apply for a grant?", to remove footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

4. Revise § 57.3107, entitled "How long does grant support last?", to amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section.

5. Revise § 57.3109, entitled "For what purposes may grant funds be spent?", to amend paragraph (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

6. Revise § 57.3110, entitled "What additional department regulations apply to grantees?", to capitalize the word "department" in the section heading.

Subpart GG—Payment for Tuition and Other Educational Costs

This final regulation amends the existing regulations authorized under section 710 of the PHS Act that establish the criteria (set out in subpart GG) to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible for payment. This rule amends § 57.3201 by:

1. Revising the outdated section numbers and United States Code citations for the first two scholarship programs listed under § 57.3201; and

2. Removing the reference to the program for "Scholarships for First-Year Students of Exceptional Financial Need" (sec. 758 of the PHS Act).

Public Law 100–607 made amendments to section 758 to leave to the school's discretion whether to pay all or part of the tuition and other educational expenses. The statutory amendment to sec. 758 states "a scholarship provided to a student for a school year * * * *may consist of all or part payment* to, or * * * on behalf of the student." Because the Federal Government no longer is required to pay full tuition, the authority in section 710 relating to allowable increases in tuition ceases to be relevant to the scholarship program authorized by section 758. The reference to the program "Scholarships for First-Year Students for Exceptional Financial Need", listed in § 57.3201, subpart GG, is therefore removed.

Subpart II—Grants for Programs for the Training of Expanded Function Dental Auxiliaries

Section 2740(c)(1) of Public Law 97–35, the Omnibus Budget Reconciliation Act of 1981, 95 Stat. 922, amended section 783(a) to authorize provisions only for physician assistant training. Concurrently, section 2744 of Public Law 97–35 (95 Stat. 924) restructured the provisions in section 783(a)(2) for Grants for Programs for the Training of Expanded Function Dental Auxiliaries, and the provisions were subsumed under the authority of redesignated section 788(b), as it was in effect for Conversion and Curriculum Grants for Various Health Professions, 42 U.S.C. 295g-8. Subsequently, the provisions under section 788(b) were amended by Public Law 99–129, the Health Professions Training Assistance Act of 1985, to expand the provisions in health promotion and disease prevention, various curriculum development and training, and health professions initiatives. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart II, consisting of §§ 57.3401–57.3413, and placing it in reserve status.

Subpart JJ—Capitation Grants for Schools of Public Health

Sections 770–772 of the PHS Act, 42 U.S.C. 295f, as it was in effect for Capitation Grants for Schools of Public Health was repealed by section 773 of Pub. L. 100–607, the Health Professions Reauthorization Act of 1988 (102 Stat. 3127), effective October 1, 1990 (sunset provision), which repealed part E of title VII of the PHS Act. The Department is therefore removing from title 42, part 57 of the Code of Federal Regulations this program under subpart JJ, consisting of §§ 57.3501–57.3510, and placing it in reserve status.

Subpart NN—Grants for Various Health Professions Projects

This final regulation amends subpart NN governing Grants for Various Health Professions Projects under section 788(b) of the PHS Act to:

1. Revise § 57.3902, entitled "Definitions.", to amend the following terms:

(a) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions; and

(b) The definition of "State" by inserting after the "Trust Territory of the Pacific Islands" "(the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia", in accordance with Public Law 99–239, the Compact of Free Association Act of 1985. This change is being made to update those entities that are viewed as States.

2. Revise § 57.3906, entitled "How long does grant support last?", to reflect current Department grants policy language for consistency in title 42, part 57 regulations to:

(a) Amend paragraph (b) by removing the second sentence which is repetitive of language regarding the submission of a separate application to receive consideration for continued support stated in the last sentence of paragraph (c) of this section;

(b) Amend paragraph (c) by adding a sentence regarding continuation support; and

(c) Remove paragraph (d) concerning federally obligated grant funds, and relocate it in § 57.3907, entitled "For what purposes may grant funds be spent?".

3. Revise § 57.3907, entitled "For what purposes may grant funds be spent?", by adding a paragraph (c) on the expenditure of any balance of federally obligated grant funds to reflect current Department grants policy language.

4. Revise § 57.3908, entitled "What additional Departmental regulations apply to grantees?", to:

(a) Revise the word "Departmental" in the section heading to "Department";

(b) Add an introductory text to the section to indicate what other regulations apply to grants under this subpart.

Subpart OO—Grants for Health Professions Projects in Geriatrics

This final regulation amends subpart OO governing Grants for Health Professions Projects in Geriatrics under section 789(a) of the PHS Act to:

1. Change the word "osteopathy" wherever it appears in subpart OO to read "osteopathic medicine", in accordance with Public Law 100–607.

2. Revise § 57.4001, entitled "To what projects do these regulations apply?" to revise the section number of the Act from "788 (d)" to "789 (a)".

3. Revise § 57.4002, entitled "Definitions." to amend the following terms:

(a) The definition of "Allied health professional" to revise the words "an individual" to read "a health professional", in accordance with Public Law 100–607;

(b) The definition of "Health professional" to clarify the list of professionals, which includes "nurse" to read "professional nurse", and "nurse practitioner" in accordance with established definitions codified in title 42, part 57 definitions;

(c) The definition of "Health professions school" to:

(1) Change the word "podiatry" to read "podiatric medicine", in accordance with Public Law 100–607; and

(2) Incorporate the disciplines of "chiropractic, graduate programs in health administration, or graduate programs in clinical psychology" to conform to the current definition as defined in section 701(4) of the PHS Act;

(d) The definition of "Nonprofit" to reflect current Department policy language for consistency in title 42, part 57 definitions;

(e) The definition of "School of allied health" to incorporate "or hospital-based educational entity" as another entity to provide a program of education for allied health professionals, in accordance with Public Law 100–607; and

(f) The definition of "Training and retraining of faculty" to change the section number of the Act from "788(e)(3)" to read "789(b)(3)".

4. Revise § 57.4003, entitled "Who is eligible to apply for a grant?" to:

(a) Add the word "private" before the word "nonprofit"; and

(b) Remove footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations.

5. Revise § 57.4005, entitled "How will applications be evaluated?", by revising the section number of the Act in paragraph (a) from "788(d)(2)(B)" to "789(a)(2)(A)".

6. Revise § 57.4007, entitled "For what purposes may grant funds be spent?", to amend paragraph (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

7. Revise § 57.4009, entitled "What other audit and inspection requirements apply to grantees?", to revise the parenthetical phrase at the end of the section providing the current OMB control number.

Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry

This final regulation amends subpart PP governing Grants for Faculty Training Projects in Geriatric Medicine and Dentistry under section 789(b) of the PHS Act to:

1. Revise § 57.4103, entitled "Who is eligible to apply for a grant?", to:

(a) Remove footnote [1] providing the address for obtaining applications and instructions to reflect current Department regulatory policy for consistency in title 42, part 57 regulations; and

(b) Add at the end of the section the OMB control number regarding information collection requirements for this section.

2. Revise § 57.4107, entitled "How long does grant support last?", by revising the last sentence in paragraph (a) to change the time allowance of a project period from "3 years" to "not exceed 5 years", in accordance with current grants policy for this program.

3. Revise § 57.4111, entitled "Duration of fellowships.", to clarify that fellowship assistance for participants in a 1-year fellowship program "and a 1-year" retraining program is limited to 12 months.

4. Revise § 57.4113, entitled "For what purposes may grant funds be spent?", to amend paragraph (c) to reflect current Department grants policy language for consistency in title 42, part 57 regulations.

Justification for Omitting Notice of Proposed Rulemaking

Since these amendments are of a technical and ministerial nature, the Secretary has determined, pursuant to 5 U.S.C. 553 and departmental policy that it is unnecessary and impractical to follow proposed rulemaking procedures or to delay the effective date of these regulations.

Regulatory Flexibility Act and Executive Order 12291

These regulations govern financial assistance programs in which participation is voluntary. The rule will neither exceed the threshold level of $100 million established in section (b) of Executive Order 12291 nor does it meet any of the additional criteria contained in the Executive Order. For these reasons, the Secretary has determined that this rule is not a major rule under Executive Order 12291 and a regulatory impact analysis is not required. Further, because this rule does not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980 is not required.

Paperwork Reduction Act of 1980

The following list of subparts in this final rule contains information collection language which have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and have been assigned control numbers for each affected section as listed below under each subpart.

Section No.	OMB control No.
Subpart C—Health Professions Student Loan Program	
§ 57.206	0915–0047
§ 57.208	0915–0047
§ 57.210	0915–0047, 0094
§ 57.211	0915–0047
§ 57.212	0915–0047
§ 57.215	0915–0047
§ 57.216a	0915–0047
Subpart D—Nursing Student Loan Program	
§ 57.306	0915–0047
§ 57.308	0915–0047
§ 57.310	0915–0094
§ 57.311	0915–0047
§ 57.312	0915–0047
§ 57.315	0915–0047
§ 57.316a	0915–0047
Subpart F—Grants for Nurse Anesthetist Traineeships	
§ 57.509	0915–0060
§ 57.510	0915–0060
§ 57.512	0915–0060
Subpart H—Grants for Physician Assistant Training Programs	
§ 57.704	0915–0060
§ 57.705	0915–0060
§ 57.711	0915–0060
Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry	
§ 57.1104	0915–0060
§ 57.1111	0915–0060
Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine	
§ 57.1609	0915–0060
Subpart R—Grants for the Establishment of Departments of Family Medicine	
§ 57.1704	0915–0060
§ 57.1709	0915–0060
Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds	
§ 57.1810	0915–0060
Subpart V—Grants for Centers of Excellence	
§ 57.2109	0905–0060
Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs	
§ 57.2404	0915–0060
§ 57.2405	0915–0060
Subpart Z—Grants for Advanced Nurse Education Programs	
§ 57.2504	0915–0060
Subpart CC—Scholarships for Students of Exceptional Financial Need	
§ 57.2803	0915–0028
§ 57.2804	0915–0028
§ 57.2809	0915–0028
Subpart DD—Financial Assistance for Disadvantaged Health Professions Students	
§ 57.2904	0915–0110
§ 57.2909	0915–0110
Subpart EE—Grants for Residency Training in Preventive Medicine	
§ 57.3003	0915–0060
§ 57.3004	0915–0060
§ 57.3007	0915–0060
§ 57.3010	0915–0060
Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics	
§ 57.3104	0915–0060
§ 57.3111	0915–0060
Subpart OO—Grants for Health Professions Projects in Geriatrics	
§ 57.4009	0915–0060
Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry	
§ 57.4103	0915–0060
§ 57.4110	0915–0060
§ 57.4112	0915–0060
§ 57.4115	0915–0060

List of Subjects in 42 CFR Part 57

Dental health, Education of the disadvantaged, Educational facilities, Educational study programs, Grant programs—education, Grants programs—health, Health facilities, Loan programs—health, Medical and dental schools, Student Aid.

Dated: July 9, 1992.

James O. Mason,

Assistant Secretary for Health.

Approved: August 18, 1992.

Louis W. Sullivan,

Secretary.

Accordingly, 42 CFR part 57 is amended to read as set forth below:

PART 57—GRANTS FOR CONSTRUCTION OF TEACHING FACILITIES, EDUCATIONAL IMPROVEMENTS, SCHOLARSHIPS AND STUDENT LOANS

Subpart C—Health Professions Student Loans

1. The authority for subpart C continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); secs. 740–747, Public Health Service Act, 77 Stat. 170–173, 90 Stat. 2266–2268, 91 Stat. 390–391, 95 Stat. 920, 99 Stat. 532–536, and as amended by 102 Stat. 3125 (42 U.S.C. 294m–q).

§ 57.203 [Amended]

2. Section 57.203 is amended by removing footnote [1] in paragraph (a); and by removing the parenthetical phrase at the end of the section text.

§ 57.208 [Amended]

3. Section 57.208 is amended by revising the parenthetical phrase at the end of the section to read "(Approved by the Office of Management and Budget under control number 0915–0047)".

§ 57.210 [Amended]

4. Section 57.210 is amended by removing both parenthetical phrases at the end of the section and adding in their place the following phrase "(Approved by the Office of Management and Budget under control numbers 0915–0047 and 0915–0094)".

§ 57.213a [Amended]

5. Section 57.213a is amended by removing the parenthetical phrase at the end of the section.

§ 57.215 [Amended]

6. Section 57.215 is amended by revising the phrase "45 CFR Part 74" to read "45 CFR part 74" in paragraph (a)(3); and by revising the parenthetical phrase at the end of the section to read "(Approved by the Office of Management and Budget under control number 0915–0047)".

7. Section 57.216 is amended by revising the footnote number and the footnote reference to "45 CFR part 83" from "2" to "1"; and by adding in

numerical order a CFR citation to read as follows:

§ 57.216 What additional Department regulations apply to schools?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

Subpart D—Nursing Student Loans

1. The authority for subpart D continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 67 Stat. 631 (42 U.S.C. 216); secs. 835–842, Public Health Service Act, 77 Stat. 913–916, as amended, 99 Stat. 397–400, 536–537, and as amended by 102 Stat. 3160–3161 (42 U.S.C. 297 a–i).

§ 57.303 [Amended]

2. Section 57.303 is amended by removing footnote [1] in paragraph (a); and by removing the parenthetical phrase at the end of the section.

§ 57.308 [Amended]

3. Section 57.308 is amended by revising the parenthetical phrase at the end of the section to read "(Approved by the Office of Management and Budget under control number 0915–0047)".

§ 57.310 [Amended]

4. Section 57.310 is amended by revising the footnote number and the footnote reference to paragraph (a)(1)(iii) from "2" to "1"; by revising the word "repaypment" in the first sentence of paragraph (b)(2)(i) to read "repayment"; and by removing the parenthetical phrases at the end of the section and adding in their place the following phrase "(Approved by the Office of Management and Budget under control number 0915–0094)".

§ 57.313 [Amended]

5. Section 57.313 is amended by removing the parenthetical phrase at the end of the section.

§ 57.314 [Amended]

6. Section 57.314 is amended by revising the footnote number and the footnote reference to the section heading from "3" to "2".

§ 57.315 [Amended]

7. Section 57.315 is amended by revising the parenthetical phrase at the end of the section to read "(Approved by the Office of Management and Budget under control number 0915–0047)".

8. Section 57.316 is amended by revising the footnote number and the footnote reference to "45 CFR part 83" from "4" to "3"; and by adding in numerical order a CFR citation to read as follows:

§ 57.316 What additional Department regulations apply to schools?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

Subpart F—Grants for Nurse Anesthetist Traineeships

1. The authority for subpart F is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 67 Stat. 631 (42 U.S.C. 216); sec. 831(a) of the Public Health Service Act, 93 Stat. 580, 96 Stat. 2061, and as amended by 99 Stat. 396–397 (42 U.S.C. 297–1).

2. Section 57.502 is amended by removing from paragraph (2) in the definition of "Nurse anesthetist training program" the slash symbol and the word "Schools"; by removing the acronym "(HHS)" from the definition of "Secretary"; and by revising the definition of "Nonprofit" to read as follows:

§ 57.502 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

§ 57.503 [Amended]

3. Section 57.503 is amended by removing footnote [1] to the section.

§ 57.505 [Amended]

4. Section 57.505 is amended by removing the second sentence in paragraph (b).

5. Section 57.507 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 57.507 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of the budget period may be carried forward provided specific approval is granted by the Secretary. * * *

6. Section 57.508 is amended in paragraph (b) by removing the word "Secretary" at the end of the first sentence and adding in its place the words "Public Health Service."; and by revising paragraph (c) to read as follows:

§ 57.508 What financial support is available to trainees?

* * * * *

(c) A transportation allowance for travel to field training if the site is beyond a reasonable commuting distance and requires the trainee to establish a temporary new residence. However, the grantee may not pay an allowance for daily commuting from the new place of residence to the field training headquarters.

7. Section 57.509 is amended by removing the "Effective Date Note" at the end of the section and adding in its place a parenthetical phrase, and by revising paragraph (a) to read as follows:

§ 57.509 Who is eligible for financial assistance as a trainee?

* * * * *

(a) Be a resident of the United States and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Trust Territory of the Pacific Islands (TTPI) (consisting of the Republic of Palau), or a citizen of the Republic of the Marshall Islands or the Federated States of Micronesia (both formerly part of the TTPI);

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0060)

§ 57.510 [Amended]

8. Section 57.510 is amended by removing the "Effective Date Note" at the end of the section and adding in its place the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

§ 57.512 [Amended]

9. Section 57.512 is amended by removing the "Effective Date Note" at the end of the section and adding in its place the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

10. Section 57.513 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.513 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

Subpart G—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart G (consisting of §§ 57.601 through 57.613).

Subpart H—Grants for Physician Assistant Training Programs

1. The authority for subpart H is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 783(a)(1), Public Health Service Act, 90 Stat. 2314, and 99 Stat. 524 (42 U.S.C. 295g–3(a)(1)); redesignated as sec. 788(d) and amended by 102 Stat. 3135 (42 U.S.C. 295g–8(d)).

2. Section 57.701 is revised to read as follows:

§ 57.701 Applicability.

The regulations in this subpart apply to the award of grants to public or private nonprofit schools of medicine or osteopathic medicine, and other public or private nonprofit entities under section 788(d) of the Public Health Service Act (42 U.S.C. 295g8(d)) to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants.

3. Section 57.702 is amended by revising the word "osteopathy" to read "osteopathic medicine" in the definition of "Physician assistant"; by revising the term "Health manpower shortage area" to read "Health professional shortage area"; and by removing the term "School of medicine or school of osteopathy" and adding in its place the term "School of medicine or school of osteopathic medicine" and revising the definition; and by revising the definition of "Nonprofit" to read as follows:

§ 57.702 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

School of medicine or "school of osteopathic medicine" means a public or private nonprofit school which provides training leading respectively to a degree of doctor of medicine or a degree of doctor of osteopathic medicine, and which is accredited as provided in section 701(5) of the Act.

* * * * *

4. Section 57.703 is revised to read as follows:

§ 57.703 Eligibility.

Any public or private nonprofit school of medicine or osteopathic medicine or public or private nonprofit entity located in a State is eligible to apply for a grant under this subpart.

5. Section 57.704 is amended by removing paragraph (c) (4); by revising the section number of the Act in paragraph (c) (1) from "783" to "788(d)"; and by removing footnote 1 in paragraph (a) and revising paragraph (a) read as follows:

§ 57.704 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

* * * * *

6. Section 57.705 is amended by removing the parenthetical authority citation at the end of the section; and by revising paragraph (b) to read as follows:

§ 57.705 Project requirements.

(b) The program must (1) be accredited as an Educational Program for the Physician Assistant by the American Medical Association's Committee on Allied Health Education and Accreditation, or (2) have received a Letter of Review from the Accreditation Review Committee on Education for the Physician Assistant.

* * * * *

7. Section 57.706 is amended by revising the section number of the Act in paragraph (a) (2) from "783" to "788(d)"; and by revising paragraphs (a) (4) and (5) to read as follows:

§ 57.706 Evaluation of applications.

(a) * * *

(4) The local, regional, and national needs the project proposes to serve;

(5) The adequacy of the project's plan for placing graduates in health professional shortage areas;

* * * * *

8. Section 57.707 is amended by revising the section number of the Act in paragraph (a) (1) from "783" to "788(d)"; and by revising paragraphs (a) (2), (a) (3), and (c) to read as follows:

§ 57.707 Grant award.

(a) * * *

(2) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed 5 years.

(3) Neither the approval of any project nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved project or portion of an approved project. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

* * * * *

(c) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, existence of legislative authority, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

9. Section 57.709 is amended in paragraph (a) by revising the section number of the Act from "783" to "788(d)"; by revising paragraph (b); and by revising the first sentence of paragraph (c) to read as follows:

§ 57.709 Purposes for which grant funds must be spent.

* * * * *

(b) Grant funds may not be spent for sectarian instruction or for any religious purpose.

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

10. Section 57.710 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.710 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

11. Except for the Office of Management and Budget control number at the end of the section, § 57.711 is revised to read as follows:

§ 57.711 What other audit and inspection requirements apply to grantees?

Each entity which receives a grant under this subpart must, in addition to the requirements of 45 CFR part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

* * * * *

Subpart I—Programs for the Training of Physician Assistants

1. The authority for subpart I is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 701(8)(B), 90 Stat. 2247, as amended by 95 Stat. 913 and 99 Stat. 525–526 (42 U.S.C. 292a(8)(B)).

§ 57.802 [Amended]

2. Section 57.802 is amended by revising the term "Health manpower shortage area" to read "Health professional shortage area"; and by revising the word "osteopathy" to read "osteopathic medicine" in the introductory paragraph of the definition of "Physician assistant".

3. Section 57.803 is amended by revising the word "osteopathy" to read "osteopathic medicine" in paragraph (b); by revising the words "one academic year" to read "1 academic year" in paragraph (d), and the words "four months" to read "4 months" in paragraph (e); by revising the word "manpower" to read "professional" in paragraphs (g) and (h); and by revising paragraph (a)(2) to read as follows:

§ 57.803 Requirements.

* * * * *

(a) * * *

(2) Have received a Letter of Review from the Accreditation Review Committee on Education for the Physician Assistant for its plans for a program for the training of physician assistants;

* * * * *

Subpart J—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart J (consisting of §§ 57.901 through 57.913).

Subpart K—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart K (consisting of §§ 57.1001 through 57.1014).

Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry

1. The authority for subpart L is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 786(b) of the Public Health Service Act, 90 Stat. 2317, as amended by 99 Stat. 540–541 (42 U.S.C. 295g–6(b)); redesignated as sec. 785 and amended by 102 Stat. 3130–3131 (42 U.S.C. 295g–5).

2. Section 57.1101 is amended by revising the introductory paragraph in the section text to read as follows:

§ 57.1101 To what projects do these regulations apply?

These regulations apply to the award of grants under section 785 of the Public Health Service Act (42 U.S.C. 295g–5) to public or private nonprofit schools of dentistry and to accredited postgraduate dental training institutions to meet the costs of projects to:

* * * * *

3. Section 57.1102 is amended in the definition of "Practice of general dentistry" by revising the word "Subpart" in paragraph (4) to read "subpart"; and by removing the term "Nonprofit school" and adding in its place the term "Nonprofit" and revising the definition to read as follows:

§ 57.1102 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned or operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

4. Section 57.1103 is revised to read as follows:

§ 57.1103 What entities are eligible to apply for a grant?

Any public or private nonprofit school of dentistry or accredited postgraduate dental training institution located in a State is eligible to apply for a grant.

5. Section 57.1104 is amended by removing footnote [1] in paragraph (a) and revising paragraph (a) to read as follows:

§ 57.1104 How must an entity apply for a grant?

(a) To apply for a grant under this subpart, each entity shall submit an application in the form and at such time as the Secretary may prescribe.

* * * * *

§ 57.1106 [Amended]

6. Section 57.1106 is amended in paragraph (a) by revising the section number "786(b)" to read "785".

7. Section 57.1107 is amended in paragraph (a)(1) by revising section number "786(b)" to read "785"; and by revising paragraphs (a)(2), (a)(3), (a)(4), and (b) to read as follows:

§ 57.1107 How will grant awards be made?

(a) * * *

(2) The notice of grant award specifies the length of time the Secretary intends to support the project without requiring the project to recompete for funds. This period, called the project period, will not exceed 3 years.

(3) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, existence of legislative authority, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(4) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved project or any portion of an approved project. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

(b) *Determination of grant amount.* The Secretary will determine the amount of any award under this subpart on the basis of his or her estimate of the sum necessary for the cost (including both direct and indirect costs) of the project. In addition, in determining the amount of stipend support to be made available for the general practice residency program, the amount of any stipend must be limited to that portion of the annual amount normally paid to other residents by the applicant which the Secretary determines, on the basis of the documentation required in the application, cannot reasonably be paid from other available funds, including the incomes derived from the residents' services. For the advanced educational program in general dentistry, stipends for participants (who are postdoctoral students) must be paid in accordance with established Public Health Service postdoctoral stipend rates.

8. Section 57.1109 is amended by removing the word "other" from paragraph (c); and by revising the first sentence in paragraph (b) to read as follows:

§ 57.1109 Purposes for which grant funds may be spent.

* * * * *

(b) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

* * * * * *

9. Section 57.1110 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.1110 What additional Department regulations apply to grantees?

* * * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * * *

45 CFR part 93—New restrictions on lobbying.

10. Section 57.1111 is revised to read as follows:

§ 57.1111 What other audit and inspection requirements apply to grantees?

Each grantee must, in addition to the requirements of 45 CFR part 74, meet the requirements of section 705 of the Act, concerning audit and inspection.

(Approved by the Office of Management and Budget under control number 0915–0060)

§ 57.1112 [Amended]

11. Section 57.1112 is amended by removing the parenthetical phrase at the end of the section.

Subpart M—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart M (consisting of §§ 57.1201 through 57.1212).

Subpart N—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart N (consisting of §§ 57.1301 through 57.1314).

Subpart O—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart O (consisting of §§ 57.1401 through 57.1415).

Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine

1. The authority for subpart Q is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 786(a), Public Health Service Act, 90 Stat. 2316, and as amended by 102 Stat. 3146 (42 U.S.C. 295g–6(a)).

2. Section 57.1601 is revised to read as follows:

§ 57.1601 To what programs do these regulations apply?

These regulations apply to the award of grants under section 786(a) of the Public Health Service Act (42 U.S.C. 295g–6(a)) to schools of medicine or osteopathic medicine, hospitals, and other public or private nonprofit entities for projects to: (a) Plan, develop, and operate, or participate in predoctoral, graduate, or faculty development educational programs in family medicine; and (b) provide financial assistance to trainees participating in predoctoral or graduate educational programs who are in need of financial assistance and who plan to practice family medicine or to trainees in faculty development programs who plan to teach in family medicine training programs.

3. Section 57.1602 is amended by removing the term "School of medicine or osteopathy" and by adding in its place the term "School of medicine or osteopathic medicine" and revising the term; and by revising the definitions of "Clerkship", "Nonprofit", "Predoctoral training program", paragraph (a) of "Residency training program", "State", "Student assistantship", and "Trainee" to read as follows:

§ 57.1602 Definitions.

* * * * *

Clerkship means supervised clinical training in a specific field of medicine for predoctoral medical (M.D. or D.O.) students.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

Predoctoral training program means an educational program in family medicine, including courses, clerkships or preceptorships in family medicine, which is part of a course of study leading to the degree of doctor of medicine or osteopathic medicine, and student assistantships in family medicine.

Residency training program means:

(a) A residency program in family practice which is fully or provisionally accredited by the Accreditation Council for Graduate Medical Education; or

* * * * *

School of medicine or osteopathic medicine means a public or private nonprofit school in a State which provides training leading, respectively, to a degree of doctor of medicine or to a degree of doctor of osteopathic medicine and which is accredited as provided in section 701(5) of the Act.

* * * * *

State includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

Student assistantship means a research program in family medicine for predoctoral medical (M.D. or D.O.) students.

Trainee means a medical (M.D. or D.O.) student, intern, resident, or physician participating in a training program supported by a grant under these regulations.

4. Section 57.1603 is amended by revising the word "osteopathy" to read "osteopathic medicine" in paragraphs (a) and (b); and by adding a new paragraph (c) to read as follows:

§ 57.1603 Who is eligible to apply for a grant?

* * * * *

(c) Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

5. Section 57.1604 is amended by removing the parenthetical phrase at the end of the section; by revising the words "four consecutive weeks" to read "4 consecutive weeks" in paragraph (b)(3)(iii)(C), the words "eight consecutive weeks" to read "8 consecutive weeks" in paragraph (b)(4)(iii)(C), and the words "three months" to read "3 months" in paragraph (d)(5)(ii); and by revising paragraph (b)(3)(i) to read as follows:

§ 57.1604 What requirements must a project meet?

* * * * *

(b) * * *

(3) * * *

(i) The project must provide medical (M.D. or D.O.) students with ambulatory care training in a community setting.

* * * * *

6. Section 57.1606 is amended by removing paragraph (d); and by revising paragraphs (b) and (c) to read as follows:

§ 57.1606 How long does grant support last?

* * * * *

(b) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

7. Section 57.1607 is amended by adding a new paragraph (c) to read as follows:

§ 57.1607 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

8. Section 57.1608 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.1608 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.1609 [Amended]

9. Section 57.1609 is amended by adding at the end of the section the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

Subpart R—Grants for the Establishment of Departments of Family Medicine

1. The authority for subpart R is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 780, Public Health Service Act, 90 Stat. 2311, as amended by 95 Stat. 221 and 102 Stat. 3146 (42 U.S.C. 295g).

§ 57.1701 [Amended]

2. Section 57.1701 is amended by revising in the introductory text the phrase "schools of medicine and osteopathy" to read "schools of medicine and osteopathic medicine".

3. Section 57.1702 is amended by removing the term "School of medicine or osteopathy" and by adding in its place the term "School of medicine or osteopathic medicine" and revising the definition; in the definition of "Residency training program" by revising the words "three-year" to read "3-year" and the words "two years' " to read "2 years' "; and by revising the definitions of "Academic administrative unit", "Nonprofit", and "State" to read as follows:

§ 57.1702 Definitions.

Academic administrative unit or *unit* means a department, division, or other formal academic unit of a school of medicine or osteopathic medicine that provides clinical instruction in family medicine.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

School of medicine or *osteopathic medicine* means a public or private nonprofit school in a State which provides training leading, respectively, to a degree of doctor of medicine or to a degree of doctor of osteopathic medicine and which is accredited as provided in section 701(5) of the Act.

* * * * *

State includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.1703 is revised to read as follows:

§ 57.1703 Who is eligible to apply for a grant?

Any school of medicine or osteopathic medicine which is located in a State is eligible to apply for a grant. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

§ 57.1704 [Amended]

5. Section 57.1704 is amended in the first sentence of paragraph (f) by removing the phrase "required in § 57.1704(f)." and adding a period after the word "instruction"; in paragraph (g) by revising the reference of "§ 57.1704(f)" to read "paragraph (f)"; in paragraphs (d) and (e) by revising the word "osteopathy" to read "osteopathic medicine"; and by adding at the end of the section the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

6. Section 57.1706 is amended by removing paragraph (d); by revising the words "five years" to read "5 years" in paragraph (a); and by revising paragraphs (b) and (c) to read as follows:

§ 57.1706 How long does grant support last?

* * * * *

(b) Generally, the grant will initially be funded for 1 year and subsequent noncompeting continuation awards will also be for 1 year at a time. Decisions regarding noncompeting continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, noncompeting continuation awards

require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application, nor the award of any grant, shall commit or obligate the United States in any way to make any additional, supplemental, noncompeting continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

7. Section 57.1707 is amended by adding a new paragraph (c) to read as follows:

§ 57.1707 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amount awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

8. Section 57.1708 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.1708 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.1709 [Amended]

9. Section 57.1709 is amended by adding at the end of the section the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

Subpart S—Educational Assistance to Individuals From Disadvantaged Backgrounds

1. The authority for subpart S continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 787, Public Health Service Act, 90 Stat. 2317, as amended by 95 Stat. 923, 99 Stat. 541, and 102 Stat. 3131–3132 (42 U.S.C. 295g–7).

2. Section 57.1802 is amended by revising the definition of "Nonprofit" to read as follows:

§ 57.1802 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

§ 57.1803 [Amended]

3. Section 57.1803 is amended by removing footnote [1] from paragraph (a).

4. Section 57.1805 is amended by revising paragraph (a)(2) to read as follows:

§ 57.1805 Program requirements.

(a) * * *

(2) To provide individuals from disadvantaged backgrounds, for a period prior to their entry into a regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education in a health professions school or school of allied health, or to refer them to institutions which provide it. Preliminary education in this context is education designed to expand the academic ability of disadvantaged students during their preprofessional training. It may not include classes already taught as part of the regular course of education leading to a high school diploma or undergraduate degree. It may not be offered to students before they complete the junior year of high school.

* * * * *

§ 57.1807 [Amended]

5. Section 57.1807 is amended by revising the words "three years" to read "3 years" in paragraph (a), and the words "one year" to read "1 year" in two places in paragraph (b).

§ 57.1809 [Amended]

6. Section 57.1809 is amended by revising the footnote number and the footnote reference to "45 CFR part 83" from "2" to "1".

1. The heading for subpart V is revised to read as follows:

Subpart V—Grants for Centers of Excellence

2. The authority for subpart V continues to read as follows:

Authority: Sec. 788A of the Public Health Service Act, as established by Pub. L. 100–97, 101 Stat. 713–714 (42 U.S.C. 295g–8a), and redesignated as sec. 782 and as amended by Pub. L. 100–607, 102 Stat. 3136 (42 U.S.C. 295g–2).

3. Section 57.2102 is amended by revising the definitions of "Health professions school" and "Nonprofit" to read as follows:

§ 57.2102 Definitions.

* * * * *

Health professions school means any accredited school of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, and chiropractic or graduate programs in health administration, or graduate programs in clinical psychology, as defined in section 701(4) of the Act and as accredited in section 701(5) of the Act.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

§ 57.2103 [Amended]

4. Section 57.2103 is amended by removing footnote [1] from the section.

5. Section 57.2107 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 57.2107 For what purposes may grant funds be spent?

* * * * *

(b) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

* * * * *

6. Section 57.2108 is amended by revising the footnote number and the footnote reference to "45 CFR part 83" from "2" to "1"; and by adding in numerical order a CFR citation to read as follows:

§ 57.2108 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.2109 [Amended]

7. Section 57.2109 is amended by removing the "Effective Date Note" at the end of the section and adding in its place the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0060)".

Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs

1. The authority for subpart Y continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 822(a) of the Public Health Service Act, 89 Stat. 361, as amended by 99 Stat. 394–395 and 548 (42 U.S.C. 296m).

2. Section 57.2401 is revised to read as follows:

§ 57.2401 Applicability.

The regulations of this subpart are applicable to the award of grants to public or private nonprofit schools of nursing and public health, public or private nonprofit schools of medicine which received grants under section 822(a) of the Public Health Service Act (42 U.S.C. 296m) prior to October 1, 1985, public or private nonprofit hospitals, and other public or private nonprofit entities under section 822(a) to meet the cost of projects to (a) plan, develop, and operate, (b) expand, or (c) maintain programs for the education of nurse practitioners or nurse midwives.

3. Section 57.2402 is amended in paragraph (b) the definition of "Associate degree school of nursing" by revising the phrase "two-year program" to read "2-year program"; by revising in paragraph (o) the word "or" the first time it is used to read "of" in the heading of the term "Programs for the education of nurse practitioners or nurse midwives"; and by revising paragraph (j) the definition of "Nonprofit", to read as follows:

§ 57.2402 Definitions.

* * * * *

(j) *Nonprofit* refers to the status of an entity which is a corporation or association or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

4. Section 57.2403 is amended by revising paragraph (a)(1) to read as follows:

§ 57.2403 Eligibility.

(a) * * *

(1) Be a public or private nonprofit school of nursing or public health, a public or private nonprofit school of medicine which received grants under this subpart prior to October 1, 1985, public or private nonprofit hospital; or other public or private nonprofit entity; and

* * * * *

§ 57.2404 [Amended]

5. Section 57.2404 is amended by removing footnote[1] in paragraph (a) and removing paragraph (c)(8).

§ 57.2406 [Amended]

6. Section 57.2406 is amended in paragraph (a)(2)(i) by revising the phrase "health manpower shortage areas" to read "health professional shortage areas".

7. Section 57.2408 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 57.2408 Expenditure of grant funds.

* * * * *

(b) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

8. Section 57.2409 is amended by revising the first citation "45 CFR Part 50, Subpart D" to read "42 CFR part 50, subpart D"; and by adding in numerical order the following CFR citations to read as follows:

§ 57.2409 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

9. The appendix to subpart Y, C. Student enrollment, paragraph 1., and D. Length of program, are revised as follows:

Appendix to Subpart Y—Guidelines for Nurse Practitioner and Nurse Midwifery Programs

* * * * *

C. *Student enrollment.* 1. A nurse practitioner or nurse midwifery education program shall have an enrollment of not less than six full-time equivalent students in each class.

* * * * *

D. *Length of program.* A nurse practitioner or nurse midwifery education program shall be a minimum of 1 academic year (or 9 months) in length and shall include at least 4 months (in the aggregate) of classroom instruction.

* * * * *

Subpart Z—Grants for Advanced Nurse Education Programs

1. The authority for subpart Z continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 821 of the Public Health Service Act, 89 Stat. 361; as amended by 95 Stat. 930, and by 99 Stat. 394 and 548 (42 U.S.C. 296*l*).

2. Section 57.2502 is amended in the definition of "State" by revising the word "Federal" to read "Federated"; and by revising the definitions of "Council" and "Nonprofit" to read as follows:

§ 57.2502 Definitions.

* * * * *

Council means the Advisory Council on Nurses Education established by section 851(a) of the Act.

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

§ 57.2503 [Amended]

3. Section 57.2503 is amended in paragraph (b)(1) by revising the words "one year" to read "1 year".

4. Section 57.2504 is amended by removing the "Effective Date Note" at the end of the section; and by removing footnote [1] to paragraph (a) and revising paragraph (a) to read as follows:

§ 57.2504 Application.

(a) Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

* * * * *

5. Section 57.2508 is amended by revising the first sentence in paragraph (b) to read as follows:

§ 57.2508 Expenditure of grant funds.

* * * * *

(b) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

6. Section 57.2509 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.2509 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

Subpart AA—Grants for Nurse Practitioner and Nurse Midwifery Traineeship Programs

1. The authority for subpart AA continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 822(b) of the Public Health Service Act; 91 Stat. 393; amended by 95 Stat. 930; amended by 99 Stat. 395; and as amended by 102 Stat. 3157 (42 U.S.C. 296m).

2. Section 57.2601 is revised to read as follows:

§ 57.2601 To what programs do these regulations apply?

These regulations apply to grants awarded to schools of nursing and public health, schools of medicine which received grants or contracts under this subsection prior to October 1, 1985, public or private nonprofit hospitals, and other public or private nonprofit entities to meet the costs of traineeships under section 822(b) of the Public Health Service Act.

3. Section 57.2602 is amended by removing the term "Health manpower shortage area" and adding in its place "Health professional shortage area"; and by revising the introductory text and paragraph (c) of the definition of "Health professional shortage area" and the definition of "Nonprofit" to read as follows:

§ 57.2602 Definitions.

* * * * *

Health professional shortage area means any of the following which the Secretary determines has a shortage of health professionals:

* * * * *

(c) A public or private nonprofit medical facility.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

4. Section 57.2603 is revised (and footnote [1] is removed) to read as follows:

§ 57.2603 Who is eligible to apply for a grant?

Any school of nursing or public health, or school of medicine which received grants or contracts under this section prior to October 1, 1985, public or private nonprofit hospital or other public or private nonprofit entity which is located in a State and which provides a nurse practitioner or nurse midwifery educational program is eligible to apply for a grant. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

§ 57.2604 [Amended]

5. Section 57.2604 is amended in paragraphs (a)(3) and (b) by revising the words "health manpower shortage areas" to read "health professional shortage areas".

6. Section 57.2607 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 57.2607 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

§ 57.2610 [Amended]

7. Section 57.2610 is amended by removing the parenthetical phrase at the end of the section; in paragraph (b), by revising the words "health manpower shortage area" to read "health professional shortage area"; and in paragraphs (d) and (h), by revising the words "health manpower shortage areas" to read "health professional shortage areas".

§ 57.2613 [Amended]

8. Section 57.2613 is amended by removing the parenthetical phrase at the end of the section; in paragraphs (a)(1) and (c), by revising the words "health manpower shortage area" to read "health professional shortage area"; and in paragraph (a)(2), by revising the words "health manpower shortage areas" to read "health professional shortage areas".

§ 57.2615 [Amended]

9. Section 57.2615 is amended by removing the parenthetical phrase at the end of the section.

10. Section 57.2616 is amended by revising the word "Manpower" in the CFR reference of 45 CFR part 5 to read "Professional"; by revising the footnote number and the footnote reference to 45 CFR part 83 from "2" to "1"; and by adding numerically a CFR reference at the end of the section to read as follows:

§ 57.2616 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 93—New restrictions on lobbying.

1. The heading of subpart CC is revised to read as follows: Subpart CC—Scholarships for Students of Exceptional Financial Need

2. The authority for subpart CC is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 758, Public Health Service Act, 90 Stat. 2289, as amended by 102 Stat. 3126–3127 (42 U.S.C. 294z).

§ 57.2801 [Amended]

3. Section 57.2801 is amended by removing the words "first-year" in the section text.

4. Section 57.2802 is amended by removing the term and the definition of "First year of study"; and by revising the definitions of "Health professions school or school", and "State" to read as follows:

§ 57.2802 Definitions.

* * * * *

Health professions school or *school* means, for this subpart, a public or private nonprofit school of medicine, osteopathic medicine, dentistry, optometry, podiatric medicine, pharmacy, or veterinary medicine providing a course of study, or a portion thereof, as defined in section 701(4) of the Act and as accredited in section 701(5) of the Act.

* * * * *

State means in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

5. Section 57.2803 is amended by revising paragraph (a); and by adding a parenthetical phrase at the end of the section to read as follows:

§ 57.2803 How to apply for a grant.

(a) Any health professions school located in a State may apply for a grant. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

* * * * *

(Approved by the office of Management and Budget under control number 0915–0028)

6. Section 57.2804 is amended in paragraph (a)(2) by removing the phrase "in the first year of study"; in paragraph (b)(2) by removing the phrase "and published under 45 CFR 144.13"; by revising paragraph (a)(1); and by adding a parenthetical phrase at the end of the section text to read as follows:

§ 57.2804 Students eligible for scholarships.

(a) * * *

(1) Is a resident of the United States, and either a citizen or national of the United States, an alien lawfully admitted for permanent residence in the United States, a citizen of the Commonwealth of the Northern Mariana Islands, a citizen of the Trust Territory of the Pacific Islands (TTPI) (consisting of the Republic of Palau), or a citizen of the Republic of the Marshall Islands or the Federated States of Micronesia (both formerly part of the TTPI).

* * * * *

(Approved by the Office of Management and Budget under control number 0915–0028)

§ 57.2805 [Amended]

7. Section 57.2805 is amended in paragraph (a) by removing the words "for the first year of study" and adding in its place the words "in such school year".

§ 57.2806 [Amended]

8. Section 57.2806 is amended at the end of the first sentence of paragraph (c)(1) by removing the words "for the first year of study at the school,"; and by revising the word "osteopathy" to read "osteopathic medicine" in paragraph (b) once and in paragraph (c)(1) three times.

9. Section 57.2808 is amended by removing the word "Departmental" in the section heading and adding in its place the word "Department"; and by adding in numerical order the following CFR citations to read as follows:

§ 57.2808 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.2809 [Amended]

10. Section 57.2809 is amended by adding at the end of the section the following parenthetical phrase "(Approved by the Office of Management and Budget under control number 0915–0028)".

Subpart DD—Financial Assistance for Disadvantaged Health Professions Students

1. The authority for subpart DD continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 787 of the Public Health Service Act, 90 Stat. 2309, as amended by 95 Stat. 923, 99 Stat. 541 (42 U.S.C. 295g–7).

2. Section 57.2902 is amended by revising the definition of "State" (and by removing the footnote) to read as follows:

§ 57.2902 Definitions.

* * * * *

State means in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

3. Section 57.2904 is amended in the first sentence of paragraph (b)(1)(i) by removing the phrase "and published under 34 CFR 674.13"; and by revising paragraph (a)(1) to read as follows:

§ 57.2904 Eligibility and selection of aid recipients.

(a) * * *

(1) Is a citizen, national, or lawful permanent resident of the United States, permanent resident of the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, or American Samoa, or lawful permanent resident of the Commonwealth of Puerto Rico, the Virgin Islands or Guam;

* * * * *

4. Section 57.2908 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.2908 What additional Department regulations apply to grants?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

* * * * *

45 CFR part 93—New restrictions on lobbying.

Subpart EE—Grants for Residency Training in Preventive Medicine

1. The authority for subpart EE is revised to read as follows:

Authority: Section 793, Public Health Service Act, 95 Stat. 928 (42 U.S.C. 295h–1c); redesignated as sec. 788(c) of the Public Health Service Act, 102 Stat. 3134–3135 (42 U.S.C. 295g–8(e)).

§ 57.3001 [Amended]

2. Section 57.3001 is amended by revising the section number of the Act from "793" to "788(c)"; by revising the United States Code number from "(42 U.S.C. 295h–1c)" to "(42 U.S.C. 295g–8(e))"; and by revising the word "osteopathy" to read "osteopathic medicine."

3. Section 57.3002 is amended in the definition of "Full-time faculty" by revising the word "osteopathy" to read "osteopathic medicine"; and by revising the definitions of "Nonprofit" and "State" to read as follows:

§ 57.3002 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

State includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

4. Section 57.3003 is revised to read as follows:

§ 57.3003 Who is eligible to apply for a grant?

Accredited public or private nonprofit schools of medicine, osteopathic medicine or public health located in a State are eligible to apply for a grant. Each eligible applicant desiring a grant under this subpart shall submit an application at the time and in such a

form that the Secretary may prescribe. To be eligible for a grant, an applicant must demonstrate that it has, or will have by the end of 1 year of grant support, full-time faculty with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

(Approved by the Office of Management and Budget under control number 0915–0060)

§ 57.3004 [Amended]

5. Section 57.3004 is amended by removing the "Effective Date Note" at the end of the section and adding in its place a parenthetical phrase to read "(Approved by the Office of Management and Budget under control number 0915–0060)".

§ 57.3005 [Amended]

6. Section 57.3005 is amended by removing the word "and" at the end of paragraph (a)(4); and by revising the section number "793" in paragraph (a)(1) to read "788(c)".

7. Section 57.3006 is amended in paragraph (b) by removing the second sentence and by revising in the first sentence the words "one year" to read "1 year" twice; by removing paragraph (d); by revising the words "three years" to read "3 years" in paragraph (a); and by revising paragraph (c) to read as follows:

§ 57.3006 How long does grant support last?

* * * * *

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of any approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

§ 57.3007 [Amended]

8. Section 57.3007 is amended by removing the "Effective Date Note" at the end of the section text and adding in its place a parenthetical phrase to read "(Approved by the Office of Management and Budget under control number 0915–0060)". Section 57.3007 is further amended in paragraph (b) by revising the words "two years" to read "2 years".

9. Section 57.3008 is amended by adding a new paragraph (c) to read as follows:

§ 57.3008 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's needs for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

10. Section 57.3009 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.3009 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.3010 [Amended]

11. Section 57.3010 is amended by removing the "Effective Date Note" at the end of the section and adding in its place a parenthetical phrase to read "(Approved by the Office of Management and Budget under control number 0915–0060)".

Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics

1. The authority for subpart FF continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, 63 Stat. 35 (42 U.S.C. 216); sec. 784, Public Health Service Act, 90 Stat. 2315, as amended by 95 Stat. 922–923 and 99 Stat. 540 (42 U.S.C. 295g–4).

§ 57.3101 [Amended]

2. Section 57.3101 is amended in the introductory section text by revising the words "osteopathy and pubic" to read "osteopathic medicine and public".

3. Section 57.3102 is amended by revising the term "Health manpower shortage area" to read "Health professional shortage area"; by removing the term "Nonprofit school" and adding in its place the term "Nonprofit" and revising the definition; and by removing the term "School of medicine and osteopathy" and adding in its place the term "School of medicine and osteopathic medicine" and revising the definition to read as follows:

§ 57.3102 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

School of medicine and osteopathic medicine means a public or private nonprofit school which provides training leading respectively to a degree of doctor of medicine or to a degree of doctor of osteopathic medicine and which is accredited as provided in section 701(5) of the Act.

* * * * *

4. Section 57.3103 is amended by removing the footnote and revising the section to read as follows:

§ 57.3103 Who is eligible to apply for a grant?

Any school of medicine or osteopathic medicine, public or private nonprofit hospital or any other public or private nonprofit entity, located in a State, may apply for a grant under this subpart. Each eligible applicant desiring a grant under this subpart shall submit an application in the form and at such time as the Secretary may prescribe.

§ 57.3105 [Amended]

5. Section 57.3105 is amended in paragraph (a)(8) by revising the word "osteopathy" to read "osteopathic medicine".

6. Section 57.3107 is amended in paragraph (a) by revising the phrase "five years" to read "5 years"; and by revising paragraph (b) to read as follows:

§ 57.3107 How long does grant support last?

* * * * *

(b) Generally, the grant will initially be funded for 1 year, and subsequent continuation awards will also be for 1 year at a time. Decisions regarding continuation awards and the funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require

a determination by the Secretary that continued funding is in the best interest of the Federal Government.

* * * * *

7. Section 57.3109 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 57.3109 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

8. Section 57.3110 is amended by revising the heading of the section text; and by adding in numerical order the following CFR citations to read as follows:

§ 57.3110 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

Subpart GG—Payment for Tuition and Other Educational Costs

1. The authority for subpart GG is revised to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690, as amended by 63 Stat. 35 (42 U.S.C. 216); sec. 711, Public Health Service Act, 90 Stat. 2253; section 710, PHS Act, as redesignated by Pub. L. 97-35, 95 Stat. 915 (42 U.S.C. 292k).

2. Section 57.3201 is revised to read as follows:

§ 57.3201 To which programs do these regulations apply?

The regulations in this subpart establish the criteria to be used in determining allowable increases in tuition and other educational costs for which the Secretary is responsible for payment under the following sections of the Public Health Service Act: The National Health Service Corps Scholarship Program (sec. 338A) (42 U.S.C. 254l) and the Indian Health Scholarship Program (awarded pursuant to sec. 338A–339G of the PHS Act) (25 U.S.C. 1613a). These programs are referred to herein as the "scholarship programs." The regulations apply to increases in tuition and other educational costs occurring after the school year beginning immediately before October 1, 1981.

Subpart II—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart II (consisting of §§ 57.3401 through 57.3413).

Subpart JJ—[Removed and Reserved]

1. Part 57 is amended by removing and reserving subpart JJ (consisting of §§ 57.3501 through 57.3510).

Subpart NN—Grants for Various Health Professions Projects

1. The authority for subpart NN is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended by 67 Stat. 631 (42 U.S.C. 216); Sec. 788(b) of the Public Health Service Act, as amended by 95 Stat. 924 and 102 Stat. 3134 (42 U.S.C. 295g–8(e)).

2. Section 57.3902 is amended by revising the definitions of "Nonprofit" and "State" to read as follows:

§ 57.3902 Definitions.

* * * * *

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

State includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands (the Republic of Palau), the Republic of the Marshall Islands, and the Federated States of Micronesia.

3. Section 57.3906 is amended by removing paragraph (d); in paragraph (a) by revising the words "five years" to read "5 years"; and by revising paragraphs (b) and (c) to read as follows:

§ 57.3906 How long does grant support last?

* * * * *

(b) Generally the grant will initially be funded for 1 year and subsequent continuation awards will also be for 1 year at a time. Decisions regarding continuation awards and funding levels of these awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by the Secretary that continued funding is in the best interest of the Federal Government.

(c) Neither the approval of any application nor the award of any grant shall commit or obligate the United States in any way to make any additional, supplemental, continuation or other award with respect to any approved application or portion of an approved application. For continuation support, grantees must make separate application at such times and in such a form as the Secretary may prescribe.

4. Section 57.3907 is amended by adding a new paragraph (c) to read as follows:

§ 57.3907 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. If at any time during a budget period it becomes apparent to the Secretary that the amount of Federal funds awarded and available to the grantee for that period, including any unobligated balance carried forward from prior periods, exceeds the grantee's need for the period, the Secretary may adjust the amounts awarded by withdrawing the excess. A budget period is an interval of time (usually 12 months) into which the project period is divided for funding and reporting purposes.

5. Section 57.3908 is amended by revising the section heading; by adding an introductory text; and by adding in numerical order the following CFR citations to read as follows:

§ 57.3908 What additional Department regulations apply to grantees?

Several other regulations apply to grants under this subpart. These include, but are not limited to:

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

Subpart OO—Grants for Health Professions Projects in Geriatrics

1. The authority for subpart OO is revised to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 788(d) of the Public Health Service Act, 99 Stat. 542 (42 U.S.C. 295g–8);

redesignated as sec. 789(a), as amended by Pub. L. 100–607, 102 Stat. 3136–37 (42 U.S.C. 295g–9(a)).

§ 57.4001 [Amended]

2. Section 57.4001 is amended by revising the section number of the Act from "788(d)" to "789(a)".

3. Section 57.4002 is amended by removing the word "only" in the definition of "State"; by revising the definitions of "Allied health professional", "Health professional", "Health professions school", "Nonprofit", "School of allied health", and "Training and retraining of faculty" to read as follows:

§ 57.4002 Definitions.

* * * * *

Allied health professional means a health professional who has received a certificate, an associate's degree, a bachelor's degree, a master's degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care and meets the requirements as established in section 701(13) of the Act.

* * * * *

Health professional means, for purposes of this subpart, any allopathic or osteopathic physician, dentist, optometrist, podiatrist, pharmacist, professional nurse (as defined in § 57.2502), and nurse practitioner (as defined in § 57.2402), physician assistant, chiropractor, clinical psychologist, health administrator, or allied health professional.

Health professions schools means any school of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, chiropractic, graduate programs in health administration, or graduate programs in clinical psychology, as defined in section 701(4) of the Act and as accredited in section 701(5) of the Act.

Nonprofit refers to the status of an entity which is a corporation or association, or is owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

* * * * *

School of allied health means a public or private nonprofit junior college, college, university or hospital-based educational entity which provides or is accredited to provide a program of education to enable individuals to become allied health professionals or to provide additional training for allied health professionals and which meets the criteria set forth in section 701(10) of the Act.

* * * * *

Training and retraining of faculty means a program to train and retrain faculty to provide geriatric instruction which is not a 1-year retraining program for faculty in schools of medicine and osteopathic medicine in geriatrics or a 1-year or 2-year internal medicine or family medicine fellowship program as identified in section 789(b)(3) of the Act.

§ 57.4003 [Amended]

4. Section 57.4003 is amended by removing footnote [1] from the section; and by adding the word "private" before the word "nonprofit" in the first sentence of the section text.

§ 57.4005 [Amended]

5. Section 57.4005 is amended in paragraph (a) introductory text by revising section number "788(d)(2)(B)" of the Act to read "789(a)(2)(A)".

6. Section 57.4007 is amended by revising the first sentence in paragraph (c) to read as follows:

§ 57.4007 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

7. Section 57.4008 is amended by adding in numerical order the following CFR citations to read as follows:

§ 57.4008 What additional Department regulations apply to grantees?

* * * * *

45 CFR part 76—Governmentwide Debarment and Suspension (nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)

* * * * *

45 CFR part 93—New restrictions on lobbying.

§ 57.4009 [Amended]

8. Section 57.4009 is amended by revising the OMB control number "0915–0128" in the parenthetical phrase at the end of the section to read "0915–0060".

Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry

1. The authority for subpart PP continues to read as follows:

Authority: Sec. 215 of the Public Health Service Act, 58 Stat. 690, 67 Stat. 631 (42 U.S.C. 216); sec. 789(b) of the Public Health Service Act, as amended by Pub. L. 100–607, 102 Stat. 3136–3138 (42 U.S.C. 295g–9(b)).

§ 57.4102 [Amended]

2. Section 57.4102 is amended in the definition of "Extended care facility" by removing the words "medically-perscribed" and adding in its place the words "medically-prescribed"; by adding in the second sentence in the definition of "Full-time teaching dentist" the word "a" after the phrase "by the grantee institution but can be"; and by adding in paragraph (1) in the definition of "Fellowship program" the word "a" after the words "Physicians who have completed".

§ 57.4103 [Amended]

3. Section 57.4103 is amended by removing footnote [1] in the section; and by adding the following parenthetical phrase at the end of the section "(Approved by the Office of Management and Budget under control number 0915–0060)".

§ 57.4104 [Amended]

4. Section 57.4104 is amended by removing the word "retaining" and adding in its place the word "retraining".

§ 57.4105 [Amended]

5. Section 57.4105 is amended in the second sentence of paragraph (i) by removing the word "programs" and adding in its place the word "program".

§ 57.4107 [Amended]

6. Section 57.4107 is amended in the second sentence of paragraph (a) by removing the phrase "3 years" and adding in its place the phrase "5 years".

§ 57.4111 [Amended]

7. The second sentence in § 57.4111 is revised to read "Fellowship assistance for participants in a 1-year fellowship program and a 1-year retraining program is limited to 12 months".

8. Section 57.4113 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 57.4113 For what purposes may grant funds be spent?

* * * * *

(c) Any balance of federally-obligated grant funds remaining unobligated by the grantee at the end of a budget period may be carried forward provided specific approval is granted by the Secretary. * * *

§ 57.4114 [Amended]

9. Section 57.4114 is amended by revising the footnote number and the

footnote reference to "45 CFR part 83" from "2" to "1".

[FR Doc. 92-23919 Filed 10-1-92; 8:45 am]

BILLING CODE 4160-15-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 92-1264]

List of Office of Management and Budget Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's list of Office of Management and Budget approved information collection requirements contained in the Commission's Rules.

This action will provide the public with a current list of information collection requirements in the Commission's Rules which have OMB approval and a current list of OMB-approved information collection requirements which do not have an FCC form number of rule section associated with it.

EFFECTIVE DATE: October 5, 1992.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Office of Managing Director, (202) 632-7513.

SUPPLEMENTARY INFORMATION:

In the Matter of

Editorial Amendment of List of Office of Management and Budget Approved Information Collection Requirements Contained in Part 0 of the Commission's Rules; Order

By the Managing Director:

Adopted: September 24, 1992.

Released: September 29, 1992.

1. Section 3507(f) of the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3507(f), requires agencies to display a current control number assigned by the Director of the Office of Management and Budget ("OMB") for each agency information collection requirement.

2. Section 0.408 of the Commission's Rules display the OMB control numbers assigned to the Commission's non-form information collection requirements. OMB control numbers assigned to Commission forms are not listed in this section since those numbers appear on the forms.

3. This Order amends § 0.408 to remove listings of information collections which the Commission has eliminated and to add listings of new information collections which OMB has approved.

4. This Order also adds subsection (c) to include all miscellaneous information collections assigned an OMB control number. These miscellaneous information collections include information collections which do not have an FCC form number or rule section associated with it.

5. Authority for this action is contained in section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and § 0.231(d) of the Commission's Rules. Since this amendment is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. See 5 U.S.C. 553(b)(A), (d).

6. Accordingly, *it is ordered,* That § 0.408 of the rules is *amended* as set forth in the Amendatory Text, effective on the date of publication in the **Federal Register.**

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

List of Subjects in 47 CFR Part 0

Reporting and recordkeeping requirements.

Amendatory Text

Part 0 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for part 0 continues to read:

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

2. Section 0.408, paragraph (b) is amended by removing the following rule sections and their corresponding control numbers.

§ 0.408 OMB control numbers assigned pursuant to the Paperwork Reduction Act

* * * * *

(b) * * *

47 CFR part or section where identified and described	Current OMB control No.
* * * *	*
15.7	3060-0397
* * * *	*
15.214(c)	3060-0436
* * * *	*
15.233	3060-0324
* * * *	*
15.312(c)	3060-0387
* * * *	*
15.644	3060-0372
* * * *	*
25.391	3060-0343
* * * *	*
73.940	3060-0211
* * * *	*
74.985	3060-0465
* * * *	*
76.205	3060-0313
* * * *	*
76.619	3060-0356

§ 0.408 [Amended]

3. Section 0.408, paragraph (b) is further amended by adding the following rule sections and their corresponding OMB control numbers to read as follows.

* * * * *

(b) * * *

47 CFR part or section where identified and described	Current OMB Control No.
* * * *	*
1.1107	3060-0440
* * * *	*
15.7(a)	3060-0397
* * * *	*
15.201(d)	3060-0387
15.214(d)(3)	3060-0436
* * * *	*
21.902	3060-0464
* * * *	*
21.911	3060-0464
21.912	3060-0464
21.913	3060-0464
* * * *	*
22.6(d)(2)	3060-0420
22.6(d)(3)	3060-0438
22.13(a)(1)(iv)	3060-0438
* * * *	*
22.903(b)	3060-0485
22.903(d)(3)(ii)	3060-0438
22.903(f)(1)	3060-0438
22.917	3060-0438
22.917(g)	3060-0457
22.924	3060-0438
22.925	3060-0438
22.926	3060-0438
22.940	3060-0457
22.941	3060-0457
22.943	3060-0457
22.944	3060-0457
22.945	3060-0457
* * * *	*
25.134	3060-0447
25.140	3060-0343
* * * *	*
43.21	3060-0395
43.22	3060-0395
* * * *	*
43.41	3060-0450
* * * *	*
63.01(k)(5)	3060-0454
63.07	3060-0408
* * * *	*
63.100	3060-0484
* * * *	*
64.604	3060-0463
64.605	3060-0463
* * * *	*
64.903	3060-0470
64.904	3060-0470

—Continued

47 CFR part or section where identified and described	Current OMB Control No.
64.1001	3060-0454
* * * *	*
73.30	3060-0488
73.37	3060-0489
* * * *	*
73.687	3060-0483
* * * *	*
73.1942	3060-0502
73.1943	3060-0211
* * * *	*
74.902	3060-0490
74.903	3060-0464
* * * *	*
74.931	3060-0464
* * * *	*
74.985(a)	3060-0464
74.985(b), (c), & (g)	3060-0465
74.986	3060-0493
74.990	3060-0494
74.991	3060-0491
74.992	3060-0492
* * * *	*
76.206	3060-0501
76.207	3060-0313
* * * *	*
76.607	3060-0500
* * * *	*
90.16	3060-0401
* * * *	*
90.621(b)(4)	3060-0441
* * * *	*
90.658	3060-0504
* * * *	*
97.527	3060-0323
* * * *	*

§ 0.408 [Amended]

4. Section 0.408, amended by adding a new paragraph (c) to read as follows:

Description of miscellaneous information collections	Current OMB Control No.
Tariff Review Plan	3060-0400
Terrain Shielding Policy	3060-0414
Informational tariffs by operator service providers	3060-0478
Document index terms (for Records Imaging Processing System (RIPS))	3060-0486
ARMIS operating data report	3060-0496

[FR Doc. 92-23977 Filed 10-2-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 90-315; FCC 92-392]

Aviation Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Part 87 is amended to establish equipment technical standards and licensing procedures for aircraft earth stations. The new rules provide the regulatory framework for aeronautical public correspondence and safety related communications in an interoperable aeronautical mobile-satellite service. Communications involving safety and regularity of flight are given priority and preemptive access to the system.

EFFECTIVE DATE: January 4, 1992.

FOR FURTHER INFORMATION CONTACT: Marcus Wolf, International Liaison Staff, Private Radio Bureau, Federal Communications Commission, Washington, DC 20554; or telephone (202) 632-7197.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 90-315, adopted August 20, 1992, and released September 9, 1992. The complete text of the Report and Order is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The full text may be purchased from the Commission's copy contractor: Downtown Copy Center, 1990 M Street NW., Suite 640, Washington, DC 20036; telephone (202) 296-3780.

The following collection of information contained in the rules has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from the Commission's copy contractor, Downtown Copy Center (address and telephone number are given above). Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814. A copy of any comments made should also be sent to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB Number: 3060-0057.
Title: PR Docket No. 90-315—Technical Standards and Licensing Procedures for Aircraft Earth Stations.
Action: Revision.
Respondents: Businesses.
Frequency of Response: On occasion.
Estimated Annual Burden: 8,605 respondents × 24 hours per response for a total of 206,520 burden hours.
Needs and Uses: Rules require that applicants submit the necessary data for evaluation to type accept aeronautical mobile-satellite equipment developed by various manufacturers. Applicants will be using the existing FCC Form 731 (OMB 3060-0057) with no changes being made to the current form.

Summary of Report and Order

1. This Report and Order sets forth the amendments that are necessary to establish equipment technical standards and licensing procedures for aircraft earth stations (AES). These amendments provide for the development of AES equipment for aeronautical public correspondence as well as safety related communications in mobile satellite operations. The radio services affected by this action are the Aeronautical Mobile-Satellite Service (AMSS) and the Aeronautical Mobile-Satellite (Route) Service (AMS(R)S) which is reserved for safety and regularity-of-flight communications. The frequency band which these services will use is the L-band.[1]

2. The Commission established technical standards for radio frequency output power, modulation, bandwidth, emission limits, frequency stability, and emission types, and a requirement for Doppler effect correction. The Commission also established licensing procedures and a requirement for interoperability between systems and priority and preemptive access to the L-band by AMS (R)S users. The Commission did not, however, adopt specific standards for interoperability and priority and preemptive access, nor did it adopt any rules for receiver standards.

3. Accordingly, It Is Ordered that, pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), that Part 87 of the Commission's Rules IS AMENDED as set forth below.

4. It Is Further Ordered that this proceeding is terminated.

Federal Communications Commission.
Donna R. Searcy,
Secretary.

List of Subjects in 47 CFR Part 87

Aircraft earth station commissioning and licensing, Communications equipment, Interoperability and priority

[1] In this proceeding, the term "L-band" refers to the paired bands 1545-1559 MHz and 1646.5-1660.5 MHz. The frequency band 1646.5-1660.5 MHz is for Earth (aircraft)-to-space transmissions and the corresponding space-to-Earth transmissions are made in the 1545-1559 MHz band.

and preemptive access, Technical requirements, Type acceptance.

Amendatory Text

Part 87 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for part 87 continues to read:

Authority: 48 Stat 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–156, 301–609.

2. Section 87.5 is amended by adding definitions in alphabetical order to read as follows:

§ 87.5 Definitions.

* * * * *

Aeronautical Mobile-Satellite Service. A mobile-satellite service in which mobile earth stations are located on board aircraft.

* * * * *

Aircraft earth station (AES). A mobile earth station in the aeronautical mobile-satellite service located on board an aircraft.

* * * * *

3. A new § 87.51 is added under Subpart B to read as follows:

§ 87.51 Aircraft earth station commissioning.

(a) Aircraft earth stations which require commissioning to use a privately owned satellite system must submit FCC Form 404 to the Commission before transmitting on any satellite frequency bands allocated for aeronautical mobile-satellite communications.

(b) Aircraft earth stations authorized to operate in the Inmarsat space segment must display the Commission license together with the commissioning certificate issued by Inmarsat. Notwithstanding the requirements of this paragraph, aircraft earth stations may operate in the Inmarsat space segment without an Inmarsat-issued commissioning certificate if written approval is obtained from Inmarsat in addition to the license from the Commission.

4. Section 87.131 is amended by adding to the table a new entry "Aircraft Earth" under the heading "Class of station" at the end of the table, and by adding a new footnote 8 to read as follows:

§ 87.131 Power and emissions.

* * * * *

Class of station	Frequency band/ frequency	Authorized emission(s)	Maximum power[1]
*	*	*	*
(Radio-navigation).	* * *	* * *	* * *
Aircraft Earth.	UHF	G1D, G1E, G1W	60 watts.[8]
*	*	*	*

[8] Power may not exceed 60 watts per carrier. The maximum EIRP may not exceed 2000 watts per carrier.

5. Section 87.133 is amended by adding to paragraph (a)(7) a new entry, "aircraft earth station," between the listings for "Aircraft stations" and "Radionavigation stations," and a new footnote 11 to read as follows:

§ 87.133 Frequency stability.

(a) * * *

Frequency band (lower limit exclusive, upper limit inclusive), and categories of stations	Tolerance [1]	Tolerance [2]
*	*	*
(7) Band-470 to 2450 MHz:	*	*
Aircraft stations	* * *	* * *
Aircraft earth station		320 Hz [11]
*	*	*

[11] For purposes of type acceptance, a tolerance of 160 Hz applies to the reference oscillator of the AES transmitter. This is a bench test.

* * * * *

6. Section 87.137 is amended by adding new entries to the table in paragraph (a), "G1D," "G1E," and "G1W" between the existing entries "F9D" and "G3E [6]," and by adding a new Footnote 16 to read as follows:

§ 87.137 Types of emission.

(a) * * *

Class of emission	Emission designator	Authorized bandwidth (kiloHertz) Below 50 MHz	Above 50 MHz	Frequency deviation
*	*	*	*	*
F9D	* * *	* * *	* * *	* * *
G1D [16]	21KOG1D		25	
G1E [16]	21KOG1E		25	
G1W [16]	21KOG1W		25	
G3E [6]	* * *	* * *	* * *	* * *
*	*	*	*	*

[16] Authorized for use by aircraft earth stations. Lower values of necessary and authorized bandwidth are permitted.

* * * * *

7. Section 87.139 is amended by adding a new paragraph (i) introductory text to read as follows:

§ 87.139 Emission limitations.

* * * * *

(i) When using G1D, G1E, or G1W emissions in the 1646.5–1660.5 MHz frequency band, the emissions must be attenuated as shown below.

(1) At rated output power, while transmitting a modulated single carrier, the composite spurious and noise output shall be attenuated below the mean power of the transmitter, pY, by at least:

Frequency (MHz)	Attenuation (dB) [1]
.005–1559	83 or $65+10\log_{10}pY$, whichever is greater.
1559–18000	55 or $37+10\log_{10}pY$ [2], whichever is greater.

[1] These values are expressed in dB below the carrier referenced to a 4 kHz bandwidth and relative to the maximum emission envelope level.

[2] Excluding the frequency band of +/−35 kHz or +/−4.00 x the symbol rate (SR), about the carrier frequency, whichever is the greater exclusion.

(2) For transmitters rated at 60 watts or less:

When transmitting two unmodulated carriers, each 3 dB below the rated power, the mean power of any intermodulation products must be at least 24 dB below the mean power of either carrier.

(3) The transmitter emission limit is a function of the modulation type and symbol rate (SR). Symbol Rate is expressed in symbols per second.

(4) While transmitting a single modulated signal at the rated output power of the transmitter, the emissions must be attenuated below the maximum emission level by at least:

Frequency Offset (normalized to SR)	Attenuation (dB)
+/−0.75 x SR	0
+/−1.40 x SR	20
+/−2.80 x SR	40
+/−4.00 x SR or +/−35 kHz, Whichever is greater	F_m

Where:

$F_m = 55$ or $(37+10\log_{10}pY)$, whichever is greater

SR = Symbol Rate

SR = 1 x channel rate for BPSK

SR = 0.5 x channel rate for QPSK

8. Section 87.141 is amended by adding a new paragraph (j) to read as follows:

§ 87.141 Modulation requirements.

* * * * *

(j) Transmitters used at Aircraft earth stations must employ BPSK for transmission rates up to and including 2400 bits per second, and QPSK for higher rates.

9. Section 87.145 is amended by revising paragraph (b) and by adding a new paragraph (e) to read as follows:

§ 87.145 Acceptability of transmitters for licensing.

* * * * *

(b) Each transmitter must be type accepted for use in these services, except as listed in paragraph (d) of this section. However, aircraft stations which transmit on maritime mobile frequencies must use transmitters authorized for use in ship stations in accordance with Part 80 of this Chapter.

* * * * *

(e) Aircraft earth stations must correct their transmit frequencies for Doppler effect relative to the satellite. The transmitted signal may not deviate more than 335 Hz from the desired transmit frequency. (This is a root sum square error which assumes zero error for the received ground earth station signal and includes the AES transmit/receive frequency reference error and the AES automatic frequency control residual errors.) The applicant must attest that the equipment provides adequate Doppler effect compensation and where applicable, that measurements have been made that demonstrate compliance. Submission of data demonstrating compliance is not required unless requested by the Commission.

10. Section 87.147 is amended by revising paragraph (d)(3) to read as follows:

§ 87.147 Type acceptance of equipment.

* * * * *

(d) * * *

(3) The frequency bands are as follows:

74.800 MHz to 75.200 MHz
108.000 MHz to 137.000 MHz
328.600 MHz to 335.400 MHz
960.000 MHz to 1215.000 MHz
1559.000 to 1626.500 MHz
1646.500 MHz to 1660.500 MHz
5000.000 MHz to 5250.000 MHz
14.000 GHz to 14.400 GHz
15.400 GHz to 15.700 GHz
24.250 GHz to 25.250 GHz
31.800 GHz to 33.400 GHz

§ 87.171 [Amended]

11. Section 87.171 is amended by adding the following symbol and class of station in alphabetical order, "TJ—Aircraft earth station in the Aeronautical Mobile-Satellite Service."

12. Section 87.173 is amended by adding the frequency band 1646.5–1660.5 MHz to the frequency table in paragraph (b), to read as follows:

§ 87.173 Frequencies

* * * * *

(b) * * *

Frequency or frequency band	Subpart	Class of Station	Remarks
*	*	*	*
1559–1626.5 MHz.	* * *	* * *	* * *
1646.5–1660.5 MHz.	F	TJ	Aeronautical Mobile-Satellite (R).
*	*	*	*

13. Section 87.185 is amended by revising paragraphs (b) and (c) and adding a new paragraph (d) to read as follows:

§ 87.185 Scope of service.

* * * * *

(b) Aircraft public correspondence service must be made available to all persons without discrimination and on reasonable demand, and must communicate without discrimination with any public coast station or mobile-satellite earth station authorized to provide aircraft public correspondence service.

(c) Aircraft public correspondence service on maritime mobile frequencies may only be carried by aircraft stations licensed to use maritime mobile frequencies and must follow the rules for public correspondence in Part 80.

(d) Aircraft public correspondence service on Aeronautical Mobile-Satellite (R) Service frequencies may only be carried on aircraft earth stations licensed to use Aeronautical Mobile-Satellite (R) frequencies and are subject to the rules for public correspondence in this Part. Aircraft public correspondence service on Maritime Mobile-Satellite Service frequencies may only be carried by aircraft earth stations licensed to use Maritime Mobile-Satellite frequencies and are subject to the rules for public correspondence in Part 80.

14. Section 87.187 is amended by redesignating paragraphs (p) through (aa) as paragraphs (q) through (bb), and adding a new paragraph (p) to read as follows:

§ 87.187 Frequencies.

* * * * *

(p) The frequencies in the band 1545.000–1559.000 MHz and 1646.500–1660.500 MHz are authorized for use by the Aeronautical Mobile-Satellite (R) Service. The use of the bands 1544.000–1545.000 MHz (space-to-Earth) and 1645.500–1646.500 MHz (Earth-to-space) by the Mobile-Satellite Service is limited to distress and safety operations. In the frequency bands 1549.500–1558.500 MHz and 1651.000–1660.000 MHz, the Aeronautical Mobile-Satellite (R) requirements that cannot be accommodated in the 1545.000–1549.500 MHz, 1558.500–1559.000 MHz, 1646.500–1651.000 MHz, and 1660.000–1660.500 MHz bands shall have priority access with real-time preemptive capability for communications in the Mobile-Satellite service. Systems not interoperable with the Aeronautical Mobile-Satellite (R) Service shall operate on a secondary basis. Account shall be taken of the priority of safety-related communications in the Mobile-Satellite Service.

* * * * *

15. Section 87.189 is amended by revising paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (c) through (e), adding a new paragraph (b), and revising redesignated paragraphs (c) and (d) to read as follows:

§ 87.189 Requirements for public correspondence equipment and operations.

(a) Transmitters used for public correspondence by aircraft stations in the maritime mobile frequency bands must be authorized by the Commission in conformity with Part 80 of this Chapter.

(b) Transmitters used for public correspondence by aircraft stations in the Aeronautical Mobile-Satellite (R) or Maritime Mobile-Satellite frequencies must be type-accepted by the Commission in conformity with Part 87. Aircraft earth stations that are required to be commissioned to use a privately owned satellite system also must meet the provisions of § 87.51.

(c) A continuous watch must be maintained on the frequencies used for safety and regularity of flight while public correspondence communications are being handled. For aircraft earth stations, this requirement is satisfied by compliance with the priority and preemptive access requirements of § 87.187(p).

(d) All communications in the Aeronautical Mobile Service and the Aeronautical Mobile-Satellite (R) Service have priority over public correspondence.

* * * * *

[FR Doc. 92–23979 Filed 10–2–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 90

[FCC No. 92-431]

Eligibility Rules for Special Emergency Paging

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action modifies 90.38 of the Commission's Rules by expanding the eligibility of end users to which special emergency paging licensees can provide service. Hospital paging systems could not be used to inform participants in an organ donor program of the availability of a suitable organ. The Commission has decided that patients actively awaiting an organ transplant should be eligible under the Special Emergency Radio Service to receive paging service.

EFFECTIVE DATE: November 4, 1992.

FOR FURTHER INFORMATION CONTACT: Kent Nakamura, Private Radio Bureau, (202) 632-6940.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 92-431, adopted September 9, 1992 and released September 24, 1992. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1990 M Street, NW., suite 640, Washington, DC 20036, telephone (202) 452-1422.

Summary of Order

The Commission's Rules render certain classes of physically handicapped individuals and their parents or guardians eligible under the Special Emergency Radio Service to receive private carrier paging service. The enumerated classes of eligibles, however, did not explicitly include patients actively awaiting an organ transplant. Persons awaiting an organ transplant need to remain in contact with their hospitals in the event a suitable organ becomes available for transplant; if they are unable to be in surgery within hours after an organ has been located, the organ goes to the next patient on the waiting list. In response to a request for clarification from the Telocator Science and Education Foundation, the Commission amended its rules to make clear that patients actively awaiting an organ transplant as well as their parents or guardians are eligible to receive private carrier paging service.

Regulatory Flexibility Act Certification

The Commission has determined that this rule will not have a significant economic impact on a substantial number of small entities. The rule will make clear that persons actively awaiting organ transplants are eligible to receive private carrier paging service. The number of such persons is small, and the paging service is usually provided for free. Thus, the rule will not have a significant economic impact under the Regulatory Flexibility Act.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 90

Communications equipment, Radio.

Amendatory Text

Part 90 chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 90—[AMENDED]

1. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303, and 332, unless otherwise noted.

2. In Section 90.38, paragraph (a)(4) is redesignated as (a)(5) and a new paragraph (a)(4) is added to read as follows:

§ 90.38 Physically handicapped.

(a) * * *

(4) Any person actively awaiting an organ transplant.

* * * * *

[FR Doc. 92-23978 Filed 10-2-92; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1023

[Ex Parte No. MC-100 (Sub-No. 7)]

Single State Insurance Registration—1993 Rules

AGENCY: Interagency Commerce Commission.

ACTION: Final rules; Suspension of effective date.

SUMMARY: By decision served September 11, 1992 (57 FR 43151 September 18, 1992), the Commission adopted revised regulations pertaining to registration of motor carrier certificates and permits with the States. A corrected decision was served September 24, 1992. The regulations, which govern filings for the 1993 registration year, eliminate the "bingo card" system codified in the predecessor rules. The regulations are intended to alleviate burdens on the trucking industry pending Commission formulation of single State insurance registration rules required under the Intermodal Surface Transportation Efficiency Act of 1991. The new rules were to be effective on October 1, 1992. However, on September 30, 1992, the United States Court of Appeals for the D.C. Circuit entered an order staying the effective date of the new rules.

EFFECTIVE DATE: September 30, 1992.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Schwartz (202) 927-5316

or

Richard B. Felder (202) 927-5610

[TDD for the hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: On September 22, 1992, a number of joint petitioners filed an emergency motion to stay or, in the alternative for summary reversal, of final rules adopted by the Commission in *Single State Insurance Registration—1993 Rules*, 9 I.C.C.2d 1 (1992), in the United States Court of Appeals for the D.C. Circuit. In a decision entered and effective on September 30, 1992, the court concluded the petitioners had satisfied the standards required for a stay pending court review and granted the stay. *National Association of Regulatory Commissioners, et al.* v. *Interstate Commerce Commission and United States of America*, No. 92-1439 (D.C. Cir. Sept. 30, 1992). Accordingly, the rules are stayed pending further court action.

Dated: October 1, 1992.

By the Commission, Sidney L. Strickland, Jr., Secretary.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-24251 Filed 10-1-92; 3:18 pm]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 920412-2112]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California

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

ACTION: Reopening.

SUMMARY: NMFS announces that the recreational salmon fishery in the exclusive economic zone (EEZ) from Leadbetter Point, Washington, to Cape Falcon, Oregon, reopened for 1 day on September 27, 1992. This fishery was closed September 17, 1992, upon the projected attainment of the subarea coho salmon quota. The Director, Northwest Region, NMFS (Regional Director), determined that a sufficient number of coho salmon remain to allow the reopening of this fishery for 1 day. This action was intended to maximize the harvest of coho salmon without exceeding the ocean share allocated to the recreational fishery in this subarea.

DATES: Effective from 0001 hours until 2359 hours local time, September 27, 1992. Comments will be accepted through October 15, 1992.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way N.E., BIN C15700–Bldg. 1, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140.

SUPPLEMENTARY INFORMATION: In its emergency interim rule and notice of 1992 management measures (57 FR 19388, May 6, 1992), NMFS announced that the second season for the recreational fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon, would begin no earlier than September 14 and continue through the earliest of October 1 or attainment of either the overall chinook salmon quota or the subarea coho salmon quota of 3,000 fish. The subarea coho salmon quota was revised to be 5,700 coho salmon and the fishery was closed on September 17 when the coho salmon quota was projected to have been attained (57 FR 44135, September 24, 1992).

The ocean salmon regulations at 50 CFR 661.21(a)(2) state that "If a fishery is closed under a quota before the end of a scheduled season based on over-estimate of actual catch, the Secretary will reopen that fishery in as timely a manner as possible for all or part of the remaining original season provided the Secretary finds that a reopening of the fishery is consistent with the management objectives for the affected species and the additional open period is no less than 24 hours."

Based on the best available information on September 22, 1992, the recreational fishery catch in the subarea from Leadbetter Point, Washington, to Cape Falcon, Oregon, totaled 4,270 coho salmon. The remainder of the subarea coho salmon quota is sufficient to provide for an additional 24 hour opening. Therefore, the fishery was reopened for 1 day on Sunday, September 27. This reopening is consistent with the management objectives for coho salmon in this subarea.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding this reopening. The states of Washington and Oregon will manage the recreational fishery in State waters adjacent to this area of the EEZ in accordance with this Federal action. Actual notice to affected fishermen was given prior to 0001 hours local time, September 27, 1992, through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 662.23. Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. This notice does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians, Reporting and recordkeeping requirements.

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

Dated: September 29, 1992.

David S. Crestin,

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

[FR Doc. 92–24010 Filed 9–30–92; 4:43 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 57, No. 193
Monday, October 5, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 835

RIN 3206-AE72

Debt Collection

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) proposes to amend its regulations by establishing a new part 835 dealing entirely with debt collection. Collection procedures for both the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) will be combined in this part. Separate regulations will be prepared to cover subparts A through E of part 835. This regulation establishes a subpart F covering procedures whereby delinquent debts owed to OPM will be referred to the Internal Revenue Service (IRS) for collection by offset against Federal income tax refunds under 31 U.S.C. 3720A. These regulations are necessary for OPM to participate in the Tax Refund Offset Program for 1993.

DATES: Comments must be received on or before November 4, 1992.

ADDRESSES: Send comments to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy, Retirement and Insurance Group, P.O. Box 884, Washington, DC 20044, or hand deliver to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Patricia Rochester, (202) 606-0299.

SUPPLEMENTARY INFORMATION: This proposed rule will establish procedures for OPM to refer past-due legally enforceable debts to the IRS for offset against Federal income tax refunds of persons owing debts to OPM. These procedures are being codified in OPM's regulations for general information and are consistent with IRS regulations for Federal tax refund offsets.

Section 3720A of title 31, United States Code, authorizes the IRS to reduce a taxpayer's Federal income tax refund by the amount of any legally enforceable debt that is owed to a Federal agency if it is at least 3 months overdue. An agency may give the IRS notice of a past-due legally enforceable debt in accordance with regulations issued by the Department of the Treasury at 26 CFR 301.6402-6. Before an agency gives such notice, however, it must: (1) Notify the debtor that the agency proposes to refer the debt for a Federal income tax refund offset; (2) give the debtor 60 days from the date of the notification to present evidence that all or part of the debt is not past-due or legally enforceable; (3) consider any evidence presented by the debtor and determine whether any amount of such debt is past-due and legally enforceable; and (4) satisfy such other conditions as the Secretary of the Treasury may prescribe to ensure that the agency's determination is valid and that the agency has made reasonable efforts to obtain payment of the debt.

This rule provides that before OPM refers a debt to the IRS, a Notice of Intent will be sent to the debtor. The Notice of Intent will inform the debtor of the amount of the debt and that unless the debt is repaid within 60 days from the date of the Notice of Intent, OPM intends to collect the debt by requesting the IRS to offset any Federal income tax refund payable to the debtor. In addition, the Notice of Intent will state that the debtor has a right, during the 60-day period, to present evidence that all or a portion of the debt is not past-due or legally enforceable and explain how the debtor can submit such evidence. OPM will consider this evidence and notify the debtor of its decision and any subsequent action to be taken as a result of the debtor's submission.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this rule will not have a significant economic impact on a substantial number of small entities because it will only affect private persons who owe debts to the Civil Service Retirement and Disability Fund.

List of Subjects in 5 CFR Part 835

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement, Survivors.

U.S. Office of Personnel Management.

Douglas A. Brook,

Acting Director.

Accordingly, OPM proposes to add a new part 835 to 5 CFR chapter I to read as follows:

PART 835—DEBT COLLECTION

Subparts A-E—[Reserved]

Subpart F—Collection of debts by Federal tax refund offset

Sec.

835.601 Purpose.
835.602 Past-due legally enforceable debt.
835.603 Notification of intent to collect.
835.604 Reasonable attempt to notify.
835.605 OPM consideration of evidence submitted as a result of the notice of intent.
835.606 Change in notification to Internal Revenue Service.
835.607 Administrative charges.

Authority: 5 U.S.C. 8347(a) and 8461(g). Subpart F also issued under 31 U.S.C. 3720A

§ 835.601 Purpose.

This subpart establishes procedures for OPM to refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for offset against the income tax refunds of persons owing debts to OPM. It specifies the agency procedures and the rights of the debtor applicable to claims referred under the Federal Tax Refund Offset Program for the collection of debts owed to OPM.

§ 835.602 Past-due legally enforceable debt.

A past-due legally enforceable debt for referral to the IRS is a debt that—

(a) Resulted from—

(1) Erroneous payments made under the Civil Service Retirement or the Federal Employees' Retirement Systems; or

(2) Unpaid health or life insurance premiums due under the Federal Employees' Health Benefits or Federal Employees' Group Life Insurance Programs; or

(3) Any other statute administered by OPM;

(b) Is an obligation of a debtor who is a natural person;

(c) Except in the case of a judgment debt, has been delinquent at least 3 months but not more than 10 years at the time the offset is made;

(d) Is at least $25.00;

(e) With respect to which the individual's rights described in 5 CFR 831.1301 through 831.1309 have been exhausted;

(f) With respect to which either:

(1) OPM's records do not contain evidence that the person owing the debt (or his or her spouse) has filed for bankruptcy under Title 11 of the United States Code; or

(2) OPM can clearly establish at the time of the referral that the automatic stay under 11 U.S.C. 362 has been lifted or is no longer in effect with respect to the person owing the debt or his or her spouse, and the debt was not discharged in the bankruptcy proceeding;

(g) Cannot currently be collected under the salary offset provisions of 5 U.S.C. 5514(a)(1);

(h) Is not eligible for administrative offset under 31 U.S.C. 3716(a) because of 31 U.S.C. 3716(c)(2), or cannot currently be collected as an administrative offset by OPM under 31 U.S.C. 3716(a) against amounts payable to the debtor by OPM; and

(i) Has been disclosed by OPM to a consumer reporting agency as authorized by 31 U.S.C. 3711(f), unless the consumer reporting agency would be prohibited from reporting information concerning the debt by reason of 15 U.S.C. 1681c, or unless the amount of the debt does not exceed $100.

§ 835.603 Notification of intent to collect.

(a) *Notification before submission to the IRS.* A request for reduction of an IRS income tax refund will be made only after OPM makes a determination that an amount is owed and past-due and gives or makes a reasonable attempt to give the debtor 60 days written notice of the intent to collect by IRS tax refund offset.

(b) *Contents of notice.* OPM's notice of intention to collect by IRS tax refund offset (Notice of Intent) will state:

(1) The amount of the debt;

(2) That unless the debt is repaid within 60 days from the date of OPM's Notice of Intent, OPM intends to collect the debt by requesting the IRS to reduce any amounts payable to the debtor as a Federal income tax refund by an amount equal to the amount of the debt and all accumulated interest and other charges;

(3) A mailing address for forwarding any written correspondence and a contact name and a toll-free or collect telephone number for any questions; and

(4) That the debtor may present evidence to OPM that all or part of the debt is not past due or legally enforceable by—

(i) Sending a written request for a review of the evidence to the address provided in the notice;

(ii) Stating in the request the amount disputed and the reasons why the debtor believes that the debt is not past-due or is not legally enforceable;

(iii) Including in the request any documents that the debtor wishes to be considered or stating that the additional information will be submitted within the remainder of the 60-day period.

§ 835.604 Reasonable attempt to notify.

In order to constitute a reasonable attempt to notify the debtor, OPM must have used a mailing address for the debtor obtained from the IRS pursuant to 26 U.S.C. 6103(m)(2) within a period of 1 year preceding the attempt to notify the debtor, unless OPM received clear and concise notification from the debtor that notices from the agency are to be sent to an address different from the address obtained from IRS. Clear and concise notice means that the debtor has provided the agency with written notification, including the debtor's name and identifying number (as defined in 26 CFR 301.6109–1), and the debtor's intent to have the agency notices sent to the new address.

§ 835.605 OPM action as a result of consideration of evidence submitted as a result of the notice of intent.

(a) *Consideration of evidence.* If, as a result of the Notice of Intent, OPM receives notice that the debtor will submit additional evidence or receives additional evidence from the debtor within the prescribed time period, any notice to the IRS will be stayed until OPM can—

(1) Consider the evidence presented by the debtor; and

(2) Determine whether or not all or a portion of the debt is still past due and legally enforceable; and

(3) Notify the debtor of its determination.

(b) *Notification to the debtor.* Following review of the evidence, OPM will issue a written decision notifying the debtor whether OPM has sustained, amended, or cancelled its determination that the debt is past-due and legally enforceable. The notice will advise the debtor of any further action to be taken and explain the supporting rationale for the decision.

(c) *OPM action on the debt.* (1) OPM will notify the debtor of its intent to refer the debt to the IRS for offset against the debtor's Federal income tax refund, if it sustains its decision that the debt is past-due and legally enforceable. OPM will also notify the debtor whether the amount of the debt remains the same or is modified.

(2) OPM will not refer the debt to the IRS for offset against the debtor's Federal income tax refund, if it reverses its decision that the debt is past-due and legally enforceable.

§ 835.606 Change in notification to Internal Revenue Service.

(a) Except as noted in paragraph (b) of this section, after OPM sends IRS notification of an individual's liability for a debt, OPM will promptly notify IRS of any change in the notification, if OPM—

(1) Determines that an error has been made with respect to the information contained in the notification;

(2) Receives a payment or credits a payment to the account of the debtor named in the notification that reduces the amount of the debt referred to the IRS for offset; or

(3) Receive notification that the individual owing the debt has filed for bankruptcy under Title 11 of the United States Code or has been adjudicated bankrupt and the debt has been discharged.

(b) OPM will not notify the IRS to increase the amount of a debt owed by a debtor named in OPM's original notification to the IRS.

(c) If the amount of a debt is reduced after referral by OPM and offset by the IRS, OPM will refund to the debtor any excess amount and will promptly notify the IRS of any refund made by OPM.

§ 835.607 Administrative charges.

All administrative charges incurred in connection with the referral of the debts to the IRS will be assessed on the debt and thus increase the amount of the offset.

[FR Doc. 92–23948 Filed 10–2–92; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 944

[Docket No. FV–91–245PR]

Fruits; Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would lift a temporary suspension of, and make

minor revisions to, the minimum grade and size requirements for grapefruit imported into the United States. These requirements were temporarily suspended on March 11, 1991, to provide the United States Trade Representative (USTR) adequate time of review contemplated changes in the import requirements. This proposed action is needed to require imported grapefruit to meet the same minimum grade and size requirements established for grapefruit under the marketing order covering Florida grapefruit, and is required by section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

DATES: Comments must be received by October 20, 1992.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule to: Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456. Three copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours. All comments should reference the docket number, date, and page number of this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary D. Rasmussen, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–5331.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under section 8e 7 U.S.C. section 608e-1 of the Agricultural Marketing Agreement Act of 1937, as amended 7 U.S.C. 601–674, hereinafter referred to as the Act. Section 8e of the Act provides that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of these commodities into the United States are prohibited unless they meet the same or comparable grade, size quality, or maturity requirements as those in effect for the domestically produced commodities. Section 8e also provides that whenever two or more marketing orders regulate the same commodity produced in different areas of the United States, the Secretary shall determine which area the imported commodity is in most direct competition with and apply regulations based on that area to the imported commodity. The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905, and has found that the minimum grade and size requirements for imported grapefruit should be the same as those established for grapefruit under Marketing Order No. 905.

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

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

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

Import regulations issued under the Act are based on those established under Federal marketing orders. Thus, this action should also have small entity orientation, and impact on both small and large business entities in a manner comparable to rules issued under such marketing orders. There are about 25 importers of grapefruit. Small agricultural service firms, which includes importers, have been defined by the Small Business Administration 13 CFR 121.601 as those whose annual receipts are less than $3,500,000. A majority of these importers may be classified as small entities.

The minimum grade and size requirements specified in § 944.106 (7 CFR 944.106) for imported grapefruit were in effect on a continuous basis for several years prior to their suspension on March 11, 1991 (56 FR 10792, March 14, 1991). These requirements were suspended to provide the United States Trade Representative (USTR) adequate time to review contemplated changes in the grapefruit import requirements needed to reflect changes in the minimum grade and size requirements for Florida grapefruit specified in § 905.306 (7 CFR 905.306; as amended at 57 FR 334, January 6, 1992) under Marketing Order No. 905.

This rule proposes that imported grapefruit be inspected and certified as meeting the following requirements: (1) Seeded grapefruit would need to grade at least U.S. No. 1 and be at least $3\frac{1}{16}$ inches in diameter; and (2) white and red seedless grapefruit would need to grade at least Improved No. 2 (external) and U.S. No. 1 (internal) and be at least $3\frac{5}{16}$ inches in diameter, except that the minimum size would increase to $3\frac{9}{16}$ inches in diameter for white seedless grapefruit on August 17, 1992, and for red seedless grapefruit on October 26, 1992. These grapefruit import requirements would be the same as those in effect under Marketing Order No. 905, and similar to those in effect under § 944.106 just prior to their suspension on March 11, 1991.

The rule also proposes that the minimum grade and size requirements for grapefruit be specified in § 944.106. In addition, the section heading would be revised, the term "grapefruit" would be defined, and current paragraph (d) in the section would be removed since it is not needed. These changes would be non-substantive in nature and would be taken to make the regulation easier to read and understand by persons affected by the requirements.

Further, this rule proposes to increase the quantity of grapefruit which persons may import, exempt from import requirements to 15 standard packed ⅘-bushel cartons, so that it is the same quantity as the quantity of Florida grapefruit currently exempted under § 905.141 (7 CFR 905.141). The exemption in the suspended import regulation was 10 standard packed ⅘-bushel cartons.

During the 1989 and 1990 seasons, fresh grapefruit were imported into the United States from the Bahamas, the Dominican Republic, Israel, and Mexico. United States imports of grapefruit increased from 105,900 cartons (42.5 pounds per carton) in 1986 to 270,600 cartons in 1990. The 1988 import volume of 312,900 cartons was the largest in recent years. Imports from the Bahamas, the principal source of grapefruit imports, rose from 49 percent of the total in 1986 to 82 percent of the total in 1990.

The Department's National Agricultural Statistics Service final forecast for 1990–91 Florida grapefruit production is 90.2 million cartons (42.5 pounds per carton), 26 percent above the

1989–90 freeze-reduced crop. According to the Citrus Administrative Committee, which locally administers Marketing Order No. 905, Florida fresh grapefruit shipments totaled 44.7 million cartons for the 1990–91 season. Department Market News data indicate that Florida shipments accounted for over 85 percent of United States total fresh grapefruit shipments during the years from 1986 through 1990. Imports will likely constitute less than one percent of United States fresh utilization.

In accordance with section 8e of the Act, the USTR has concurred with the issuance of this proposed rule.

Based on the above, the Administrator of the AMS has determined that this proposed action would not have a significant economic impact on a substantial number of small entities.

This proposed rule reflects the Department's appraisal of the need to lift the suspended grapefruit import requirements to provide equal treatment to both domestic producers and importers, and make the specified changes in the grapefruit import regulation, as hereinafter set forth, in accordance with the Act.

A comment period of 15 days is deemed appropriate because the import requirements need to be in place as soon as possible, since grapefruit are currently being imported into the United States.

List of Subjects in 7 CFR Part 944

Avocados, Food grades and standards, Grapefruit, Grapes, Imports, Kiwifruit, Limes, Olives, Oranges.

For the reasons set forth in the preamble, 7 CFR part 944 is proposed to be amended as follows:

PART 944—FRUITS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 944 continues to read as follows:

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

2. The suspension of § 944.106 is lifted and that section is revised to read as follows:

§ 944.106 Grapefruit import regulation.

(a) Pursuant to Section 8e (7 U.S.C. section 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and part 944—Fruits; Import Regulations, the importation into the United States of any grapefruit is prohibited unless such grapefruit meet the following minimum grade and size requirements for each specified grapefruit classification:

Grapefruit classification	Regulation period	Minimum grade	Minimum diameter (in.)
Seeded	On and after(1)	U.S. No. 1	3 1/16
Seedless, red	(1)–10/25/92	Improved No. 2 (External), U.S. No. 1 (Internal)	3 5/16
	On and after 10/26/92	Improved No. 2 (External), U.S. No. 1 (Internal)	3 3/16
Seedless, except red	On and after 08/17/92	Improved No. 2 (External), U.S. No. 1 (Internal)	3 3/16

[1] Insert effective date of final rule.

(b) The term grapefruit is defined as citrus paradisi, MacFadyen.

(c) Terms and tolerances pertaining to grade and size requirements, which are defined in the United States Standards for Grades of Florida Grapefruit (7 CFR 51.750–51.784), and in Marketing Order No. 905 (7 CFR 905.18), shall be applicable herein.

(d) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all such imports. The inspection and certification services will be available upon application in accordance with the Regulations Governing Inspection, Certification and Standards of Fresh Fruits, Vegetables, and Other Products (7 CFR part 51), and in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(e) The term "importation" means release from custody of the United States Customs Service.

(f) Any person may import up to 15 standard packed cartons (12 bushels) of grapefruit exempt from the requirements specified in this section.

(g) Any grapefruit which fail to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such grapefruit borne by the importer.

(h) The Secretary has determined that grapefruit imported into the United States are in most direct competition with grapefruit grown in Florida regulated under Marketing Order No. 905.

Dated: September 24, 1992.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 92–23859 Filed 10–2–92; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 1

[Docket No. 92–20]

Investment Securities Regulations

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The office of the Comptroller of the Currency (OCC) is requesting comments on a proposal to amend its investment securities regulation to remove the requirement that banks maintain for specified periods of time credit information on issuers of certain securities. The purpose of the change is to reduce regulatory burden while promoting bank safety and soundness. National banks are expected to continue to exercise prudent banking judgment to retain records for appropriate periods.

DATES: Comments must be received by November 4, 1992.

ADDRESSES: Interested persons are invited to submit written data, views, or comments regarding the proposed

amendment to Docket No. 92–20, Communications Division, 9th Floor, Office of the Comptroller of Currency, 250 E Street, SW., Washington, DC 20219. Attention: Karen Carter.

FOR FURTHER INFORMATION CONTACT: Owen Carney, Capital Markets Division, Telephone: (202) 874–5070, Michael C. Dugas, Securities, Investments and Fiduciary Practices Division, Telephone (202) 874–5210.

SUPPLEMENTARY INFORMATION: The OCC is proposing to amend its investment securities regulations to eliminate the requirement contained in 12 CFR 1.8(b). Section 1.8(a) requires banks to hold information adequate to demonstrate that they have exercised prudence in making determinations and carrying out securities transactions. Section 1.8(b) requires banks holding certain securities to maintain information for specified periods of time, depending on whether the bank is purchasing securities for its own portfolio, underwriting or engaging in dealer activities. The OCC believes these specific retention requirements in § 1.8(b) are unnecessary.

Under current industry practice and prudent management practices, investing banks generally use and maintain relevant credit data supplied by issuers, investment bankers and credit rating services. Examples of such credit data are summary analyses and in-depth analyses prepared by rating services or the financial advisory departments of large correspondent banks. These analyses generally are updated on an ongoing basis, and provide more meaningful information than an original prospectus, particularly as it becomes dated.

The OCC believes that current credit data, supplied in accordance with industry practice, will adequately demonstrate that the bank has exercised prudence in making investment determinations and carrying out investment transactions. Therefore, the § 1.8(b) requirement for banks to retain records for specific time periods appears unnecessary.

The intended effect of the change is to remove an unnecessary regulatory requirement. If this proposal is adopted, Part 1 will no longer expressly require national banks to maintain credit information on issuers of investment securities for specified time periods. Yet, banks will be expected to continue to maintain sufficient information to evidence prudent banking judgment.

The OCC requests comment on any aspect of this proposal.

Executive Order 12291

It has been determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required. The impact of this proposal is slight. The proposal would eliminate an unnecessary regulatory requirement.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The impact of this proposal is slight, regardless of bank size. This proposal would eliminate an unnecessary regulatory requirement.

List of Subjects in 12 CFR Part 1

Banks, Banking, National banks, Investment securities, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set out in the preamble, part 1 of chapter I of title 12 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—INVESTMENT SECURITIES REGULATION

1. The authority citation for 12 CFR part 1 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24 (Seventh), 93a.

§ 1.8 [Amended]

2. Section 1.8 is amended by removing paragraph (b) and redesignating paragraph (c) as paragraph (b).

Dated: August 13, 1992.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 92–23997 Filed 10–2–92; 8:45 am]

BILLING CODE 4810–33–M

Office of Thrift Supervision

12 CFR Part 567

[No. 92–338]

RIN 1550–AA59

Capital: Concentration Risk and Risk of Nontraditional Activities

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing this advance notice of proposed rulemaking to solicit comments on ways that the OTS could ensure that its capital regulation takes adequate account of concentrations of credit risk and the risks of nontraditional activities. The OTS will consider the comments received in developing a proposed rule on concentration risk and nontraditional activities as required by section 305 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). Section 305 also requires that the OTS develop a final rule on interest-rate risk, which is being treated separately. The OTS solicits comment on the specific questions set forth below and on all aspects of the concentration risk and nontraditional activities portions of section 305. This initiative is being undertaken on a coordinated basis with the other Federal banking agencies.

DATES: Comments must be received on or before December 4, 1992.

ADDRESSES: Send comments to Director, Information Services Division, Public Affairs, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No 92–338. These submissions may be hand delivered to 1700 G Street, NW. from 9 a.m. to 5 p.m. on business days; they may be sent by facsimile transmission to FAX Number (202) 906–7753 or (202) 906–7755. Submissions must be recieved by 5 p.m. on the day they are due in order to be considered by the OTS. Late-filed, misaddressed or misidentified submissions will not be considered in this rulemaking. Comments will be available for inspection at 1776 G Street, NW., Street Level.

FOR FURTHER INFORMATION CONTACT: John F. Connolly, Program Manager, Capital Policy, (202) 906–6465; Robert Fishman, Program Manager, Credit Risk Policy, (202) 906–5672, Policy; and Dorene Rosenthal, Attorney, (202) 906–7268, Office of Chief Counsel, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Section 305 of FDICIA requires each appropriate Federal banking agency to revise its risk-based capital standards for insured depository institutions to ensure that those standards take adequate account of concentrations of credit risk and the risks of nontraditional activities. Final regulations implementing section 305 must be published not later than 18 months after the enactment of FDICIA.

Before developing a proposal for these two types of risk, the OTS is issuing this advance notice of proposed rulemaking to seek guidance on how these risks should be defined and on the factors that should be considered when

incorporating these risks into capital standards. These comments will be considered in proposing any changes to the risk-based capital standards. The OTS intends to work together with the other Federal banking agencies in formulating a proposed rule that complies with all aspects of section 305 of FDICIA.

II. Concentration of Credit Risk

Section 305 requires each Federal banking agency to revise its risk-based capital standards to take adequate account of concentrations of credit risk. Currently, this risk is considered when performing an overall evaluation of an institution's capital adequacy. In making this revision, the OTS must consider an appropriate definition of concentration and must also assess whether current risk-based capital standards take adequate account of concentrations of credit risk. The OTS seeks comments on the following questions and issues:

(1) What factors should be taken into account in defining concentrations of credit risk for risk-based capital purposes, *i.e.* industry, geography, collateral, loan type, or all of these characteristics? How should this test be applied to savings associations that are required by the Qualified Thrift Lender Test to concentrate in residential mortgage lending?

(2) How should risk-based capital standards be revised, if at all, to take adequate account of concentrations of credit risk?

(3) Most insured depository institutions appropriately concentrate their activities in their local market areas and specialize in types of lending in which they have experience and expertise. How should concentration be defined and the concentration test be structured to avoid providing an incentive for institutions to increase their risk exposure by expanding their lending territories and lines of business beyond those in which they have adequate knowledge and experience?

(4) Should there be a requirement for additional capital based on an objective formula that increases with asset concentrations or should capital be based on an overall evaluation of the effect of concentration risk on a specific institution? How should an objective formula be specified? What factors should be considered when performing an overall evaluation of an institution's capital adequacy?

(5) What factors should be considered in revising capital standards for concentration of credit risk?

III. Nontraditional Activities

Section 305 also requires each agency to revise its risk-based capital standards to take account of the risks of nontraditional activities. Since risk-based capital standards were formulated in the mid-1980s, insured depository institutions have commenced certain activities, such as commodity-linked transactions, that were not directly identified or explicitly treated in the agencies' risk-based capital regulations. These activities have been monitored by the federal banking agencies. New or nontraditional activities have been reviewed for their appropriate treatment in the risk-based capital framework. If a new activity has not appeared to fit readily within the existing risk-based capital definitions, interpretations have been made to clarify the new activity's appropriate treatment for capital purposes.

In implementing section 305, the OTS would formalize this process to ensure that institutions hold capital commensurate with the risk of nontraditional activities. The agencies' risk-based capital regulations will be amended to explicitly incorporate the risks of nontraditional activities. In this regard, the OTS seeks comments on the following questions and issues:

(6) What should the OTS consider to be a nontraditional activity?

(7) Should there be a requirement for additional capital based on a general, objective formula or should additional capital be required based on a case-by-case evaluation of the risk of the nontraditional activity in the context of an institution's risk profile and capital adequacy? How should an objective formula be structured?

(8) How should risk-based capital standards be revised to take adequate account of the risk of nontraditional activities?

(9) What factors should be considered when evaluating the risk of nontraditional activities?

Dated: July 30, 1992.

By the Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 92-24021 Filed 10-2-92; 8:45 am]

BILLING CODE 6720-01-M

Customs Service

19 CFR Part 10

Proposed Customs Regulations Amendments Relating to the United States-Israel Free Trade Area Agreement

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period of time within which interested members of the public may submit comments on proposed amendments to the Customs Regulations to implement the duty preference provisions of the Agreement which established the United States-Israel Free Trade Area. Customs has been requested to extend the comment period to allow additional time to prepare responsive comments. The comment period is extended 60 days.

DATES: Comments are requested on or before November 28, 1992.

ADDRESSES: Comments may be submitted to and inspected at the Regulations Branch, U.S. Customs Service, room 2119, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Operational Aspects: Maritza Castro, Office of Trade Operations (202-927-0789); Legal Aspects: Craig Walker, Office of Regulations and Rulings (202-927-0790).

SUPPLEMENTARY INFORMATION:

Background

On July 31, 1992, a document was published in the **Federal Register** (57 FR 33909) proposing to amend the Customs Regulations in order to implement the duty preference provisions of the Agreement which established the United States-Israel Free Trade Area. The document solicited public comments that were to be received on or before September 29, 1992.

Customs has been requested to extend the period of time for comments in order to afford interested parties additional time to study the proposed regulations and prepare responsive comments. In view of the important role of the implementing regulations in carrying out the terms of the bilateral Agreement, Customs believes that the request for an extension of time should be granted. Accordingly, the period of time for the submission of comments is being extended 60 days.

Dated: September 29, 1992.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 92-24035 Filed 10-2-92; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 301

[IA-4-92]

RIN 1545-AQ49

Authority of the Federal Crop Insurance Corporation to Require Employer Identification Numbers From Policyholders and Reinsured Companies for Purposes of the Federal Crop Insurance Act; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to the notice of proposed rulemaking (IA-4-92), which was published on Monday, August 31, 1992 (57 FR 39379). The proposed regulations relate to the authority of the Federal Crop Insurance Corporation (FCIC) to require policyholders and reinsured companies to furnish employer identification numbers for purposes of administering the Federal Crop Insurance Act.

FOR FURTHER INFORMATION CONTACT: Beverly A. Baughman, (202-622-4940, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction contains proposed amendments to the Regulations on Procedure and Administration (26 CFR part 301) to provide rules under section 6109 of the Internal Revenue Code of 1986, as amended by section 2201(d) of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law No. 101-624, 104 Stat. 3953 (1990 FACT Act).

Need for Correction

As published, the proposed regulations contain an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the proposed regulations (IA-4-92), which was the subject of FR Doc. 92-20921, is correct as follows:

Paragraph 1. On page 39380, column one, under the heading **"FOR FURTHER INFORMATION CONTACT:"**, line six, the language "CC:IT&A:4) or telephone 202-566-6985" is corrected to read "CC:IT&A:4 or telephone 202-622-4940".

Dale D. Goode,

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

[FR Doc. 92-24110 Filed 10-2-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Parts 5415 and 5452

DLA Acquisition Regulation; DLA Vendor Rating System

AGENCY: Defense Logistics Agency, DOD.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Defense Logistics Agency (DLA) is withdrawing the proposed Defense Logistics Agency acquisition regulation on the DLA Vendor Rating System (DVRS). The proposed coverage would have established new policy and a solicitation provision at parts 5415 and 5452, respectively. The proposed rule was published for public comment in the **Federal Register** on August 12, 1992 (56 FR 36051).

FOR FURTHER INFORMATION CONTACT: Ms. Catherine Heretick, Defense Logistics Agency, DLA-PPR at (703) 274-6431.

List of Subjects in 48 CFR Parts 5415 and 5452

Government procurement.

By Order of the Director.

Jack S. Carver,

Acting Chief, Publications Division, Office of Administration.

[FR Doc. 92-24031 Filed 10-2-92; 8:45 am]

BILLING CODE 3620-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 552

Motor Vehicle Safety Standards; Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars—Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking submitted by Herzlich Consulting requesting an amendment to Federal Motor Vehicle Safety Standards 110, *Tire Selection and Rims*, and 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*, that would require manufacturers to place in each vehicle's glove compartment or a similarly accessible/visible location the following warning: "Warning: underinflation, overloading or damage can cause any tire to fail suddenly." The agency has decided to deny the petition because the petitioner did not provide any data, and the agency is aware of none, demonstrating sufficient safety benefits to warrant the requested change. Accordingly, there is no reasonable probability that the requested amendment would be issued at the conclusion of a rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Arthur H. Neill, Chief, Crash Avoidance Division, Office of the Associate Administrator for Rulemaking, National Highway Traffic Safety Administration, 400 Seventh Street Southwest, room 5307, Washington, DC 20590, (202) 366-5281.

SUPPLEMENTARY INFORMATION:

Background

Federal Motor Vehicle Safety Standard Number 110, *Tire Selection and Rims*, applicable to passenger cars and to non-pneumatic spare tire assemblies for use on passenger cars; establishes tire selection requirements. Pertinent to this petition, standard 110, at S4.3, requires manufacturers to affix a placard to each passenger car's glove compartment door or an equally accessible location, showing the vehicle's capacity weight, designated seating capacity, the manufacturer's recommended cold tire inflation pressure for maximum loaded vehicle weight, the manufacturer's recommended tire size designation, and for a vehicle equipped with a non-pneumatic spare tire assembly, the non-pneumatic tire identification code required by standard 129, *New Non-Pneumatic Tires for Passenger Cars*. The required information is intended to promote the vehicle's safe performance by preventing overloading of the tires or the vehicle itself.

Labeling requirements are also contained in 49 CFR part 567, *Certification*. Specifically, § 567.4 requires vehicle manufacturers to affix to each vehicle a label on which must

appear, among other things, the Gross Vehicle Weight Rating (GVWR), which shall not be less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the vehicle's rated seating capacity; and the Gross Axle Weight Rating (GAWR), which is the value specified by the manufacturer as the load carrying capacity of a single axle system. In addition, standard 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*, requires that each vehicle manufactured after December 1, 1984 must show, on the label required by § 567.4, or on a tire information label (S5.3.2.(b)) the recommended tire size designation appropriate for the GAWR (S5.3.3), the size and type designation of rims appropriate for those tires (S5.3.4), and the cold inflation pressure for those tires (S5.3.5). If the vehicle is so equipped, the label must also show the non-pneumatic tire identification code required by S4.3(a), Standard 129.

Petition

Herzlich Consulting (Herzlich) petitioned the agency on March 12, 1992, to amend standards 110 and 120 to include a requirement that the manufacturers of the vehicles subject to those standards place a warning in the glove compartment or some other accessible/visible location which would state, in high visibility letters: "Warning: Underinflation, Overloading, or Damage can Cause any Tire to Fail Suddenly."

In support of the petition, Herzlich argued that although the Federal and state governments and the tire industry continuously communicate tire safety information, such efforts are "rather unsuccessful." Herzlich also argued that tire failure due to road hazard damage, underinflation, or overload continues to be a problem. He stated that tires are the most important safety component on the vehicle and, perhaps because of their high degree of reliability, they are often taken for granted by consumers. He suggested that the industry maintain a tire registration and recall mechanism to retrieve tires that do not meet safety standards. The number of recalls in the past five years has been relatively small, but he asserted that actual tire failure because of underinflation, overload or road hazards is significant and requires additional NHTSA communication efforts. Citing a "recent Bendix brake survey," Herzlich stated that 48.4 percent of consumers cited brake failure as their greatest mechanical fear when driving, but only 19.6 percent said brakes should be inspected regularly. Herzlich then cited a NHTSA study, DOT HS 807 805, as showing that although 38 percent of consumers were familiar with tire heat resistance ratings, only 15 percent looked at them when purchasing tires and only 12 percent were influenced by the ratings. Herzlich referred to unspecified surveys purporting to show that a "significant number of vehicles are running on underinflated, overloaded, worn-out or damaged tires," which, he contended, indicates that people get careless and need to be reminded over and over again to inspect and properly maintain their tires. Hence, he submitted this petition to amend standards 110 and 120 to require the warning quoted above. Herzlich stated that although this petition is intended primarily to promote tire safety, exhorting people to maintain their tires properly could also enhance fuel economy and improve the environment. Specifically, Herzlich calculated that 1 to 3 billion gallons of gasoline could be saved per year by persuading people to maintain proper tire pressure which, he contends, would also result in a reduction in exhaust emissions, tire failure, and road service hazards.

Agency Decision

After a full and careful review of the petition, NHTSA has decided to deny it. There already exists a plethora of literature on proper tire maintenance from tire manufacturers, dealers, trade associations, government agencies, and vehicle manufacturers. Vehicle owners' manuals contain information on proper tire maintenance as well as related subjects which are equally important to proper vehicle operation. There is no reason to believe that requiring the same information be made available in yet another place would increase consumers' responsiveness to such information.

The petitioner has presented no data, and this agency is aware of none, that would support petitioner's assertions that improper maintenance causes the vast majority of tire failures; that a significant number of vehicles are running on underinflated, overloaded, worn out or damaged tires; or that granting this petition would have any effect on fuel economy or the environment. Indeed, it has not been demonstrated that tire failure is a significant safety problem or that granting this petition would significantly affect consumer behavior regarding tire maintenance.

In summary, NHTSA believes that the wealth of safety material already available to the public through industry, government, and consumer sources adequately address the issue of proper tire inflation and maintenance; that existing labeling requirements provide sufficient information to enable consumers to maintain tires properly and safely; and that the petitioner has not shown that the amendments he proposed would significantly change the behavior of the public in that respect. Thus, there is no reasonable probability that this agency would issue the requested amendments at the conclusion of a rulemaking proceeding. Accordingly, the petition of Herzlich Consulting is denied.

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–24062 Filed 10–2–92; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

Denial of Petition for Rulemaking, Standard No. 108; Truck Trailer Manufacturers Association

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking to amend Standard No. 108, to require side turn signal lamps on trailers whose overall length exceeds 45 feet. Information available to the agency indicates that 90% of such trailers are already being manufactured with side turn signal lamps, and therefore that such safety benefits as may be ascribed to these devices are already being realized. Further, there appear to be no accident data to support the conclusion that mandatory side turn signals would prevent or lessen the severity of accidents.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA (202)–366–5275).

SUPPLEMENTARY INFORMATION: Truck Trailer Manufacturers Association (TTMA) has petitioned the agency for rulemaking to amend Federal Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices, and Associated Equipment* to require that trailers whose overall length exceeds 45 feet be equipped with side turn signal lamps. The petitioner cited traffic situations where the visibility of long vehicles is important to safety. Tractors pulling long semitrailers make wide turns and side turn signals alert motorists of these impending turns. Drivers seeking to pass tractor-long trailer combinations typically require four times as long to pass as for a compact car. Further, when a driver is alongside a 65-foot tractor-trailer combination, the front and rear

turn signals may not be visible at all. TTMA cited in support a 1981 report by Vector Enterprises, *Improved Commercial Vehicle Conspicuity and Signalling Systems.* In this report, Vector stated that "With regard to the right turn collision problem, several companies reported that the addition of turn indicators (lamps) towards the front of their trailers has proven an effective countermeasure", and recommended, "in the case of trailers, a side-mounted turn signal * * * mounted midway along each side, and meeting the same requirements as the front, side-mounted signals." TTMA concluded that "There is compelling Reason to require side turn signal lamps on trailers longer than 45 feet."

NHTSA does not share TTMA's conclusion that safety compels the mandatory installation of side turn signals. As TTMA noted in its petition, "Most trailers which are longer than 45 feet are presently being manufactured with the side turn signal lamps typically located at the intermediate side marker lamp location * * *." When pressed to quantify the word "most", TTMA estimated that 90% of large trailers being manufactured today are equipped with side turn signals. It is true that there is not the standardization of size and location of these devices that could result from a Federal regulation. For example, some manufacturers provide a large amber lamp with a directional arrow silk-screened on the lens, while others provide a typical rear turn signal lamp placed at 45 degrees to the vehicle axis. But the fact remains that most long trailers are already equipped with turn signals visible to drivers in adjacent lanes.

It therefore appears to NHTSA that the principal safety benefits that could be realized from side turn signals may have already been achieved. The agency notes that there do not appear to be data available that actually demonstrate the efficacy of side turn signal lamps, and that such benefits as may be presumed are intuitive and anecdotal. Under the circumstances, such benefits appear to be an insufficient basis upon which to base rulemaking. Further, it has been the agency's policy not to expend its resources engaging in rulemaking in areas where virtually all industry's production are already equipped with the safety device in question. For example, the agency terminated rulemaking which would have required motorcycle headlamps to be illuminated when the ignition was turned to "on", because 90% or more of motorcycles were being produced with this feature. More recently, NHTSA declined to initiate rulemaking to require lap/shoulder belts on heavy trucks because there already appeared to be voluntary compliance with respect to 95% of production.

In accordance with 49 CFR part 522, this completes the technical review of the petition. The agency has determined that there is no reasonable possibility that the amendment requested by the petitioner will be issued at the conclusion of a rulemaking proceeding, and TTMA's petition is denied.

Authority: 15 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24063 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 90-Day Finding and Commencement of Status Reviews for a Petition To List the Western Pond Turtle and California Red-Legged Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition finding.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces a 90-day finding on a petition to list the western point turtle (*Clemmys marmorata*) and the California red-legged from (*Rana aurora draytonii*) under the Endangered Species Act of 1973, as amended (Act). The petition has been found to present substantial information indicating the requested action may be warranted. Through issuance of this notice, the Service is commencing a formal review of the status of these species.

DATES: The finding announced in this notice was made on August 12, 1992. Comments and materials related to this petition finding may be submitted to the Field Supervisor at the above address until further notice.

ADDRESSES: Data, information, comments, or questions concerning the status of the petition species described below should be submitted to the Field Supervisor, Sacramento Field Office, Fish and Wildlife Service, 2800 Cottage Way, Room E-1803, Sacramento, California 95825-1846. The petition, finding, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Peter Sorensen at the above address (916/978-4866).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533) (Act), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the **Federal Register.** If the Service finds that a petition presents substantial information indicating that the requested action may be warranted, then the Service initiates a status review on that species. Section 4(b)(3)(B) of the Act requires the Service to make a finding as to whether or not the petitioned action is warranted, within 1-year of the receipt of a petition that presents substantial information.

On January 29, 1992, the Service received a petition from Drs. Mark Jennings and Marc Hayes, and Mr. Dan Holland to list the western pond turtle (*Clemmys marmorata*) and the California red-legged frog (*Rana Aurora draytonii*). The petition specified endangered or threatened status by distinct drainages (watersheds) within the range of each species. The letter, dated January 15, 1992, identified itself as a petition and contained the names, addresses, and signatures of the petitioners. A letter acknowledging receipt of the petition was mailed to the petitioners on February 10, 1992.

The information submitted in support of the petition represents an impressive synthesis of research conducted on the western pond turtle and California red-legged frog to date. The petitioners have studied exhaustively the current and historic distribution and threats to these taxa. In addition, their biological studies on these species have resulted in the publication of numerous papers in the scientific literature. This 90-day finding is based on the above information.

The western pond turtle consists of two recognized subspecies; the northwestern pond turtle (*Clemmys marmorata marmorata*), which occurs from the Sacramento Valley and coastal drainages of California northward to the Columbia River drainage of Oregon and Washington; and the southwestern pond

turtle (*C. m. pallida*), found from the San Joaquin Valley and coastal drainages southward to northwestern Baja California, Mexico. Outlying populations of the northwestern pond turtle are recorded from the vicinity of Puget Sound, Washington; Grant County, Oregon; and the Carson and Truckee Rivers, Nevada.

A habitat generalist, the western pond turtle inhabits a wide range of fresh or brackish, permanent and intermittent water bodies from sea level to about 4,500 feet (1,372 meters). Hatchlings and juveniles require more specialized habitats. The western pond turtle feeds primarily on small aquatic invertebrates.

Over 90 percent of wetland habitats historically distributed throughout the pond turtle's range in California has been eliminated. A variety of human activities, including agricultural operations, urbanization, flood control, and water diversion projects, cumulatively have contributed to loss of habitat. In addition, primary threats include habitat fragmentation and associated effects on population viability, commercial harvest and overexploitation, and predation by introduced alien species. According to the petitioners, although the western pond turtle still occurs in most of its former geographic range, it has been completely or ecologically extirpated from many areas, including the type locality in Puget Sound. The few remaining areas that contain moderate to large viable populations are apparently under threat. Extirpation of historic populations has been most pronounced throughout southern California and the San Joaquin Valley.

The California red-legged frog historically was distributed throughout most of lowland California, occurring coastally from Point Reyes National Seashore, Marin County, and inland from Redding, Shasta County, southward into northwestern Baja California, Mexico. This taxon is a habitat specialist, which among other components, requires dense shrubby or emergent vegetation associated with essentially fresh, permanent, and deep (greater than about 3 feet (.9 meters), still or slow moving water. The diet of the California red-legged frog reportedly consists primarily of amphibians and other animals.

Like the western pond turtle, the California red-legged frog also has suffered severe losses of habitat, to the extent that the taxon has been extirpated from approximately 75 percent of its historic geographic range. Large breeding populations are apparently known from only three areas. The causes of habitat loss and population decline also are similar to that of the turtle. These include habitat fragmentation, overexploitation, and the spread of exotic species. The uncontrolled spread of bullfrogs (*Rana catesbeiana*), an alien species to California, represents a particularly severe threat that has resulted in the extirpation of numerous red-legged frog populations throughout its range.

The southwestern pond turtle (*Clemmys marmorata pallida*), and the California red-legged frog are both included as category 1 candidates in the November 21, 1991, Animal Notice of Review (56 FR 58804), with listing priority numbers of 3. The northwestern pond turtle (*C. m. marmorata*), is included as a category 2 candidate in the above notice of review.

The petition and supporting information have been reviewed by staff of the Sacramento Field Office and Portland Regional Office. As noted earlier, the petitioners have conducted a thorough review of the literature to date, as well as conducting biological studies on the status of these two species. The Service finds that the petition presents substantial information indicating that listing of the western pond turtle (*Clemmys marmorata*) and the California red-legged frog (*Rana aurora draytonii*) may be warranted. This decision is based on scientific and commercial information contained in the petition and on information otherwise available to the Service at this time.

This finding initiates status reviews for these two species. The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the status of these species.

Author

This notice was prepared by Peter Sorensen (Sacramento Field Office), and Leslie J. Propp (Portland Regional Office).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: August 12, 1992.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92–24041 Filed 10–2–92; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 17

RIN–1018–AA98

Endangered and Threatened Wildlife and Plants; Notice Reopening the Public Comment Period for the Bruneau Hot Springs Snail (Pyrgulopsis bruneauensis)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: The Fish and Wildlife Service (Service) is reopening the comment period on the proposal to add the Bruneau Hot Springs Snail (Pyrgulopsis bruneauensis) to the list of endangered wildlife. The Bruneau Hot Springs snail is endemic to the complex of related thermal springs adjacent to the Bruneau River south of Mountain Home, Idaho. The major threat to this species is habitat loss due to the drastic and continuing reduction in thermal spring flows from groundwater withdrawal/mining in the Bruneau Hot Springs aquifer. The Service proposed the snail for listing as endangered on August 21, 1985 (50 FR 33803). During four public comment periods and two public hearings following the proposed rule the Service received new information that questioned the distribution, population status, and impacts of present threats. In addition, there was substantial disagreement regarding the sufficiency or accuracy of the available data used to prepare the proposed rule. Following this period, the U.S. Congress appropriated funds to: (1) Implement a tentative draft management plan developed by the Service and five cooperating agencies; Bureau of Land Management, U.S. Geological Survey, Farmers Home Administration, Idaho Department of Fish and Game, and Idaho Department of Water Resources, (2) further study the species' current status and distribution, and (3) study hydrological conditions and groundwater withdrawal in the Bruneau River basin. A final decision concerning the proposed rule has not been published. On July 6, 1992, the Land Fund of the Rockies, representing the Idaho Conservation League and the Committee for Idaho's High Desert, filed suit in Federal district court in Boise, Idaho. The suit was filed under the Endangered Species Act of 1973, as amended, over the Service's failure to make a final decision on the proposed listing of the Bruneau Hot Spring snail. Because of the concerns raised in the lawsuit and to ensure the accuracy of any final decision concerning the

appropriateness of listing, the Service believes any additional new information must be considered. Therefore, the Service reopens the comment period on the proposed rule for 30 days. The Service's goal is to base its final decision on the best available scientific and commercial information.

DATES: The comment period on the proposal is reopened until November 4, 1992.

ADDRESSES: Written comments and materials should be sent to the Field Supervisor, Boise Field Office, Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Boise Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Duke, Fish and Wildlife Service, 4696 Overland Road, Room 576, Boise, Idaho 83705 (208) 334–1931.

SUPPLEMENTARY INFORMATION:

Background

The first collections of the Bruneau Hot Springs snail were made in 1952 and 1953. Dr. Dwight Taylor studied the anatomy of the species and determined that it represented a previously unknown genus and species of the snail family Hydrobiidae. Dr. R. Hershler (1990) formally described this species, naming it *Pyrgulopsis bruneauensis*. The thin, transparent shell of the species is less than 3.00 mm (1/10 inch) in height, with 3.75 to 4.25 whorls and roughly globose to low-conic in shape.

Based on the most recent information, the species is found in over 100 small thermal springs and seeps along an 8 km length of the Bruneau River in southwestern Idaho (Mladenka 1992). No Bruneau Hot Spring snails have been collected outside thermal plumes of hot springs entering the Bruneau River. The species is normally collected in springs with seasonally fluctuating water temperatures greater than 20° C, with the maximum temperature tolerance limit of 35° C. The species is found in these habitats on all substrate types, including rocks, gravel, mud, silt and algal film. These springs and proximal thermal outflows are on lands administered by the Bureau of Land Management. Some downstream habitat is on private land.

The major threat to the Bruneau Hot Springs snail is the reduction of its thermal spring habitats from groundwater withdrawal/mining in the Bruneau Hot Springs aquifer. Exacerbated by drought, the extent of seepage at spring sources has been greatly reduced in recent years. In addition, considerable habitat has been lost in recent years due to sedimentation from flash flooding. This is especially true for the Indian Bathtub area, where the snail was first discovered. Heavy sedimentation of gravel, sand and silt has rendered a considerable amount of habitat in the Indian Bathtub unavailable to snails.

Dr. Dwight Taylor prepared a status report on the Bruneau Hot Spring snail, which was submitted to the Service in June 1982. This report was the basis for the placement of this species on the Service's comprehensive notice of review on invertebrate candidate species published in the **Federal Register** (49 FR 21664) on May 24, 1984. The Service proposed the Bruneau Hot Spring snail for listing as endangered on August 21, 1985 (50 FR 33803). The comment period on this proposal, which originally closed on October 21, 1985, was extended to December 31, 1985 (50 FR 45443). To accommodate public hearings in Boise, Idaho and Bruneau, Idaho, the comment period was reopened until February 1, 1986 (50 FR 51894). On December 30, 1986, the public comment period was once again reopened until February 6, 1987 to accommodate the receipt of additional information (52 FR 47033).

In 1990, Congress allocated approximately $400,000 for conservation measures associated with the Bruneau Hot Springs snail. This money was used to fund hydrological studies of the Bruneau Hot Spring aquifer by the U.S. Geological Survey and ecological life history studies by the Idaho State University.

The Service provided funding to implement a short-term conservation easement with Owen Ranches, Inc., owners of much of the snail habitat in Hot Creek and the Indian Bathtub. Terms of the easement included fencing to exclude cattle from grazing along snail habitats in Hot Creek. Expiration of this agreement will coincide with the completion of the hydrological studies by U.S. Geological Survey.

On July 6, 1992, the Idaho Conservation League and the Committee for Idaho's High Desert, filed a lawsuit in Federal District Court in Boise, Idaho. The lawsuit was filed under the Endangered Species Act of 1973, as amended, over the failure of the Service to make a decision regarding the listing of the Bruneau Hot Spring snail.

In order to respond to the concerns raised in the lawsuit and to ensure the accuracy of any final decision concerning the appropriateness of listing, the Service believes any additional new information must be considered. The Service reopens the public comment period for a period of 30 days. The Service's goal is to base its final decision on the best available scientific and commercial available. Written comments may now be submitted for this proposal until November 4, 1992. The Service continues to be particularly interested in comments concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

The final decision on this issue will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final decision that differs from the proposal to list the species. Comments and data concerning this species should be sent to the Boise Field Office, 4696 Overland Road, Room 576, Boise, Idaho, 83705.

References

Hershler, R. 1990. *Pyrgulopsis bruneauensis*, a new springsnail (Gastropoda:Hydorbiidae) from the Snake River plain, southern Idaho, Proc. Biol. Soc. Wash. 103(4), 1990, pp. 803–814.

Mladenka, G.C. 1992. The ecological life history of the Bruneau hot spring snail (*Pyrgulopsis bruneauensis*). Final report submitted to the Fish and Wildlife Service. Stream Ecology Center, Department of Biological Sciences, Idaho State University, Pocatello, Idaho. 116 pp.

Author

The primary author of this notice is Mr. Stephen Duke, Fish and Wildlife Service; Idaho Field Office, 4696 Overland Road, room 576, Boise, Idaho, (209) 334–1931.

Authority

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted)

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: September 17, 1992

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 92-24046 Filed 10-2-92; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 57, No. 193
Monday, October 5, 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

Establishment of Athens Purchase Unit, Ohio; Correction

AGENCY: Forest Service, USDA.

ACTION: Correction.

SUMMARY: This document corrects a legal land description contained in the notice of establishment of the Athens Purchase Unit which was published Tuesday, July 7, 1992 (57 FR 29860). On page 29861, in the lst column, the heading which reads: T. 7N., R. 16W. should read: T. 7N., R. 13 W.

FOR FURTHER INFORMATION CONTACT: Ralph Bauman, Lands Staff, 4 South, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 (202) 205–1248.

Dated: September 24, 1992.

H. M. Montrey,

Associate Deputy Chief.

[FR Doc. 92–24101 Filed 10–2–92; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Office of the Secretary

Senior Executive Service; Performance Review Board

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Office of the Secretary Senior Executive Service (SES) Performance Appraisal System:

Hugh L. Brennan
Guy W. Chamberlin, Jr.
David L. Edgell
David Farber
Mary Ann T. Fish
Barbara S. Fredericks
Jose A. Lira
James M. LeMunyon
Otto J. Wolff

James W. Moses,

Executive Secretary, Office of the Secretary, Performance Review Board.

[FR Doc. 92–23999 Filed 10–2–92; 8:45 am]

BILLING CODE 3510–BS–M

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Materials Processing Technical Advisory Committee will be held October 22, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to materials processing and related technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of Enhanced Proliferation Control Initiative.
4. Discussion of nuclear controls.

Executive Session

5. 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, TAC Staff/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) 482–2583.

Dated: September 29, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92–24025 Filed 10–02–92; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[[A–570–822 and A–583–820]

Initiation of Antidumping Duty Investigations; Certain Helical Spring Lock Washers From the People's Republic of China and Taiwan

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

EFFECTIVE DATE: October 5, 1992.

FOR FURTHER INFORMATION CONTACT: John Beck, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3464.

Initiation of Investigations

The Petition

On September 8, 1992, we received a petition filed in proper form by the Shakeproof Industrial Products Division of Illinois Tool Works Inc. (petitioner). Supplements to the petition were received on September 15 and 23, 1992.

In accordance with 19 CFR 353.12, the petitioner alleges that certain helical spring lock washers (spring lock washers) from the People's Republic of China (PRC) and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

The petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(C) of the Act, and because the petition was filed on behalf of the U.S. industry producing the products subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, it should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements are contained in 19 CFR 353.14.

Scope of Investigations

For purposes of these investigations, spring lock washers are circular washers of carbon steel (including carbon alloy steel), or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. Spring lock washers are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; 2) distribute the load over a larger area for screws or bolts: and (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as cooper. Spring lock washers constitute one class or kind of merchandise. The spring lock washers subject to these investigations are classifiable under subheading 7318.21.0000 of the Harmonized Tariff Schedule of the United States (HTS). Although the HTS subheadings are provided for convenience and customs purposes, our written description of the scope of these proceedings is dispositive.

United States Price and Foreign Market Value

Petitioner based United States price (USP) on observed price quotes of spring lock washers by producers of the subject merchandise in the PRC and Taiwan. Petitioner made deductions from USP for U.S. duty and freight charges. For Taiwan, petitioner made an additional deduction for sales commissions.

For the PRC, petitioner based foreign market value (FMV) on the market valuation of the factors of production used in producing the subject merchandise. For Taiwan, petitioner based FMV on the constructed value of the subject merchandise. Petitioner selected India as the most comparable surrogate for the PRC. Petitioner, therefore, first attempted to value the factors of production using Indian information. Where this was not possible, petitioner valued the factors of production based on its own experience. Petitioner obtained and valued the factors of production in the PRC and constructed a value for Taiwan as follows:

- For carbon steel, petitioner used for the PRC and Taiwan the high carbon wire rod per pound quotation contained in the American Metal Market Closing Prices Report for July 7, 1992. Petitioner claimed that it was unable to obtain prices for high carbon wire rod in India. Petitioner used the cost in the United States for processing the green carbon rod to finished trapezoidally shaped wire. For stainless steel in Taiwan, petitioner used price quotations in Taiwan.
- For labor, petitioner estimated the number of workers involved in producing spring lock washers based on its own experience using comparable equipment. For the PRC, petitioner valued these labor figures in India. For Taiwan, petitioner adjusted its own labor costs to account for the cost differences in the wage rates of workers in Taiwan.
- For depreciation, petitioner has provided evidence that its own equipment used to produce the subject merchandise is comparable to the equipment in the PRC and Taiwan. Petitioner valued this equipment using estimated costs of equipment available in the United States, Taiwan and Japan. Depreciation was based on a ten year period.
- For energy, petitioner estimated the amount consumed in producing the subject merchandise based on its own experience using comparable equipment. Petitioner divided energy cost into electricity cost and natural gas cost. For the PRC, petitioner adjusted its own energy costs to reflect the costs in India. For Taiwan, petitioner adjusted its own electricity cost to reflect the cost of electricity in Taiwan. Petitioner claimed that Taiwan natural gas costs were comparable to its own, and therefore made no adjustment.
- For tooling, petitioner used its own actual costs for both the PRC and Taiwan. Petitioner stated that it was impossible to obtain a public source for tooling costs since tooling is a function of production and the materials used. Petitioner stated that the tooling costs in the PRC and Taiwan should not vary from its own costs when using comparable equipment.
- For selling, general and administrative expenses (SG&A), petitioner used the statutory minimum of ten percent of the cost of manufacture for both the PRC and Taiwan.
- For profit, petitioner used the statutory minimum of eight percent of the cost of manufacture plus SG&A expenses for both the PRC and Taiwan.
- For packing, petitioner estimated the cost for both the PRC and Taiwan as a percentage of the cost of production based on its own experience.

Petitioner calculated margins for both plain and plated carbon steel lock washers in the PRC and Taiwan. For Taiwan, petitioner provided a plating price quote in Taiwan to demonstrate this cost. For the PRC, petitioner obtained and valued the plating factors of production as follows:

- For chemicals, petitioner stated that it was not able to value these factors in India after expending considerable time and effort. However, petitioner stated that the costs of the chemicals in India are comparable to its own chemical costs. Therefore, petitioner used its own chemical costs, adjusted for one percent waste.
- For labor, petitioner estimated the number of workers involved in the plating operation producing spring lock washers based on its own experience using comparable equipment. Petitioner valued these labor figures in India.
- For depreciation, petitioner stated that its own equipment used to produce the subject merchandise is comparable to the equipment in the PRC. Depreciation was based on a ten year period.
- For energy, petitioner used its own cost per pound.
- For SG&A, petitioner used the statutory minimum of ten percent of the cost of manufacture.
- For profit, petitioner used the statutory minimum of eight percent of the cost of manufacture plus SG&A expenses.

The range of dumping margins of spring lock washers from the PRC based on a comparison of USP to CV alleged by petitioner is 92.30 percent to 128.63

percent. The range of dumping margins of spring lock washers from Taiwan based on a comparison of USP to CV alleged by petitioner is 6.88 percent to 36.15 percent.

Initiation of Investigations

We have examined the petition on spring lock washers from the PRC and Taiwan and have found that the petition meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of spring lock washers from the PRC and Taiwan are being, or are likely to be, sold in the United States at less than fair value.

Preliminary Determinations by the International Trade Commission

The International Trade Commission (ITC) will determine by October 23, 1992, whether there is a reasonable indication that imports of spring lock washers from the PRC and Taiwan are materially injuring, or threaten material injury to, a U.S. industry. Negative ITC determinations will result in the investigations being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: September 28, 1992.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-24100 Filed 10-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-032]

Large Power Transformers From Japan; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 2, 1992, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from Japan. These final results of review cover one manufacturer/exporter of this merchandise for the period from June 1, 1990, through May 31, 1991. Based on our analysis of the comments received, we have adjusted the margin for the respondent.

EFFECTIVE DATE. October 5, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Michael Rill, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 23204) the preliminary results of its administrative review of the antidumping finding on large power transformers (LPTs) from Japan (37 FR 11773, June 14, 1972). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by the review are shipments of LPTs; that is, all types of transformers rated 10,000 kVA (kilovolt/amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 8504.22.00, 8504.23.00, 8504.34.33, 8504.40.00, and 8504.50.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of transformers, Fuji Electric Co., Ltd. (Fuji), during the period June 1, 1990, through May 31, 1991.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received case and rebuttal briefs from the petitioner, ABB Power T&D Company, Inc. (ABB), and the respondent, Fuji.

Comment 1: Fuji asserts that the Department should use these final results as an opportunity to clarify its position on the use of a constructed value methodology in future reviews. Fuji requests that the Department state explicitly in the final results whether constructed value has been used in this review only because of the absence of such or similar merchandise sold in the home market during the period of review, or also because of a policy decision on the part of the Department to use constructed value as the basis for foreign market value in all future reviews of this proceeding. Although Fuji stated a preference in its case brief for the constructed value methodology used in the preliminary results, it clarified its position in its rebuttal brief by stating that either the constructed value or the previously used Westinghouse Price Rules (WPR) methodology would be acceptable as long as the Department makes clear precisely what it is doing.

ABB submits that the Department's use of constructed value in this review is appropriate due to the highly complex and custom designed merchandise sold during the period of review. However, ABB asserts that the Department has a statutory responsibility to consider price-to-price comparisons in all future reviews before resorting to constructed value. ABB notes that in all past reviews, the Department has applied the WPR to the home market price to construct a foreign market value for comparison to the U.S. price. ABB argues that it would be unlawful for the Department to adopt automatically the constructed value methodology in all future reviews without first considering price-to-price comparisons based on the WPR methodology.

Department's Position: We agree with ABB that the Department has a statutory responsibility to consider price-to-price comparisons before resorting to constructed value. However, we disagree with ABB's assumption that the use of the WPR methodology constitutes the type of price-to-price comparisons called for in the statute.

The WPR methodology provides the basis for calculating a theoretical list price for both the home market and U.S. models. The difference between the theoretical list prices is used to calculate a U.S./home market price ratio. This theoretical price ratio is used to adjust the actual price of the home market model to account for differences in merchandise from the U.S. model. This type of adjustment was a surrogate for the traditional difmer adjustment based on differences in variable costs. The WPR methodology was adopted by the Department after the June 14, 1972 finding due to the fact that an LPT, which is a highly complex and custom designed product, does not lend itself to the more traditional price-to-price comparisons of such or similar merchandise as outlined in the statute.

Although the WPR methodology was not within the normal framework of the Department's antidumping calculations, it facilitated the comparison of home market models which were highly dissimilar to those sold in the United States.

After the Department issued the final results on the 1975–87 review periods on June 26, 1991, (56 FR 29215), we began to reevaluate the appropriateness of the WPR methodology. Our primary concern was that the WPR methodology was not consistent with the Department's practice for determining home market models that are similar to U.S. models. Indeed, the WPR methodology does not identify the most similar merchandise sold in the home market; rather, it simply provides a mechanism to calculate a theoretical price which is use to adjust for the differences between home market and U.S. models. In this manner, the WPR methodology is inconsistent with Departmental policy in that it results in the comparison of models which may be highly unequal in commercial value and could have a difference in merchandise adjustment of greater than twenty percent.

Due of these shortcomings, we have decided to replace the WPR methodology in this and all future administrative reviews of LPTs. In accordance with section 773(a)(1) of the Tariff Act, we will first consider the appropriateness of price-to-price comparisons in all future reviews. However, only in instances where the most similar merchandise sold in the home market has a difference in merchandise of less than twenty percent will we use price as the basis for foreign market value. In cases similar to LPTs, where the merchandise is highly customized and does not lend itself to comparison, the Department has adopted the use of constructed value in accordance with section 773(a)(2) of the Tariff Act (see Final Determination of Mechanical Transfer Presses From Japan, (55 FR 335, January 4, 1990)). Therefore, it is likely that in future reviews of this proceeding the Department will need to resort to constructed value due to the lack of merchandise sold in the home market which could be considered similar within the meaning of section 771(16)c) of the Tariff Act.

Comment 2: ABB asserts that the Department should be aware of the potential for Fuji and other respondents to manipulate dumping margins by using line-item prices on invoices including both subject and non-subject merchandise. ABB argues that the Department should put Fuji on notice that it will investigate potentially manipulated line-item prices in future administrative reviews. ABB notes that the respondent, not the petitioner, is in possession of any evidence that may indicate price manipulation; therefore, the Department must request such information and investigate the claim itself or allow the petitioner to do so.

Fuji argues that ABB's comments are based on an oversimplified view of reality that distorts the potential risk of line-item price manipulation in future administrative reviews. Fuji claims that for customs duty, taxation, depreciation, record-keeping, and other business purposes, customers care about individual price levels for large expensive equipment. Fuji asserts that as long as line-item prices are the result of arm's-length negotiations, a respondent such as Fuji should neither be "put on notice" nor required to submit business proprietary information regarding prices and cost of production of non-subject merchandise in the context of an annual review proceeding.

Department's Position: The Department's policy is to use line-item contract prices where they exist. Only if line—item contract prices do not exist, or if the Department has no confidence in those that do, does it accept alternative pricing methodologies (see Final Determination of Mechanical Transfer Presses From Japan, (55 FR 335, January 4, 1990)). Since the record indicates that the line-item prices submitted by Fuji were negotiated at arm's length, we have used these line-item prices for these final results.

Comment 3: ABB alleges that Fuji improperly removed research and development (R&D) expenses relating to "new products" from the pool of selling, general and administrative (SG&A) expenses before allocating these expenses to the subject merchandise. ABB argues that since Fuji's own internal accounting procedures include these R&D expenses in corporate SG&A, these expenses must be general in nature and should be included in the allocation over the subject merchandise.

Fuji argues that ABB is incorrect in asserting that the R&D expenses excluded from Fuji's calculation were general in nature. Fuji asserts that under its own internal accounting system, and consistent with good accounting practice, all R&D costs not associated with production process improvements are expensed on a specific product-line basis and are carried at the corporate level where records are kept as part of SG&A. Fuji claims that ABB is incorrect in assuming that Fuji's decision not to assign product-specific R&D costs to COM indicates that these R&D expenses were general R&D expenses of the company requiring even allocation across all of Fuji's sales.

Department's Position: We agree with the respondent. R&D expenses incurred for the specific development of products not subject to this administrative review may be excluded from the calculation of constructed value. Since Fuji's internal accounting methodology allows it to identify R&D costs that are not related to the subject merchandise, Fuji acted properly by not allocating these R&D costs across the subject merchandise (see Final Determination of Sweaters Wholly or in Chief Weight of Man-Made Fiber from the Republic of Korea, (55 FR 32671, August 10, 1990)).

Comment 4: Fuji argues that for these final results the Department should use the transformer-specific methodology used to calculate SG&A expenses rather than its corporate average SG&A adjusted for warehousing, freight, packing, and unrelated R&D. Fuji asserts that the transformer-specific methodology is a more accurate representation of the SG&A expenses incurred by Fuji on behalf of its large power transformer operations.

ABB contends that Fuji's suggestion that the Department use Fuji's transformer-specific SG&A would be contrary to the Department's longstanding practice of using corporate-wide SG&A.

Department's Position: We disagree with the respondent. Upon examination of the transformer-specific and the adjusted corporate-average methodologies submitted by Fuji for calculating SG&A expenses, we have determined that the corporate-average methodology is more consistent with Fuji's internal accounting methodology and therefore less likely to distort the actual SG&A expenses experienced by Fuji with respect to transformers. Therefore, we have not changed our calculations for these final results.

Comment 5: Fuji has noted two clerical errors in the calculation of the preliminary results. First, Fuji alleges that the Department made a transcription error in picking up the gross unit price for unit T–3. Second, Fuji alleges an error in the addition of the constructed value for unit T–1. Finally, Fuji notes that the preliminary results do not reflect the more detailed home market warranty expense figures set forth in Fuji's May 22, 1992 submission.

Department's Position: We have corrected the two clerical errors for these final results. In addition, we have used the more detailed home market

warranty expenses included in Fuji's May 22, 1992 submission for these final results.

Final Results of Review

As a result of our comparison of United States price to foreign market value, we have determined that a weighted-average margin of 5.90 percent exists for sales of LPTs made to the United States by Fuji during the period June 1, 1990 through May 31, 1991.

The Department shall determine and the Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between the U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be as outlined above; (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 5.90 percent. This rate represents the highest rate for any firm with shipments in the administrative review, other than those firms receiving a rate based entirely on best information available.

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 final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding 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 19 CFR 353.22.

Dated: September 23, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-24099 Filed 10-2-92; 8:45 am]

BILLING CODE 3510-DS-M

Antidumpting Duties: Provisional Measures Deposit Cap

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

ACTION: Notice of change in policy concerning provisional measures deposit cap in antidumping cases.

SUMMARY: The International Trade Administration is changing its policy concerning the provisional measures deposit cap, stated in 19 CFR 353.23 to limit the application of the provisional measures cap to entries of merchandise subject to an antidumping duty order which are secured by cash deposits. The provisional measures deposit cap will no longer apply to entries secured by bonds.

EFFECTIVE DATE: July 29, 1991.

FOR FURTHER INFORMATION CONTACT: Joan MacKenzie, Office of the Chief Counsel for Import Administration, (202) 377-1310.

SUPPLEMENTARY INFORMATION: On July 29, 1991, the Court of International Trade (the Court) issued a decision in *Zenith Electronics Corp.* v. *United States*, 770 F. Supp. 648 (CIT 1991), that overturned the International Trade Administration's (ITA) interpretation of section 737(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1673f(a)(1)) (the Act), and 19 CFR 353.23 of the ITA'S regulations. Under the ITA's interpretation, the so-called provisional measures cap applied to entries of merchandise subject to an antidumping duty order that were secured by either cash deposits or bonds or other security. The Court ruled that the provisional measures cap applies only to entries secured by cash deposits. Accordingly, the ITA will no longer apply the cap to entries secured by bonds.

Section 733(d)(2) of the Act provides that an importer of merchandise subject to an antidumping duty investigation must post bonds, cash deposits, or other security for entries of the subject merchandise after the ITA publishes and affirmative preliminary determination of sales at less than fair value. This provisional measure applies until the International Trade Commission's (ITC) final injury determination. If an antidumping duty order is imposed, the actual amount of antidumping duties due on the sales during this period is determined through an administrative review of the entries under section 751. Section 737(a)(1) provides that, if the amount of a cash deposit collected as security for an estimated antidumping duty after publication of an affirmative preliminary determination under section 733(d)(2) is different from the amount of the antidumping duty determined under a section 751 administrative review, then the difference shall be disregarded, to the extent that the cash deposit collected is lower than the duty determined to be due under the section 751 administrative review, for entries between publication of the ITA's preliminary determination and the ITC's final determination of injury under section 735(b).

This provisional measures cap provided by section 737(a), therefore, imposes a limit on the amount of antidumping duties an importer pays between the ITA's affirmative preliminary less-than-fair-value determination and the ITC's affirmative final injury determination during an antidumping investigation. The cap may be adjusted to reflect a change in the margin found in the ITA's final determination. *Daewoo Electronics Corp.* v. *U.S.*, 712 Fed. Supp. 931 (CIT 1989). The importer is not liable for more than the amount of estimated duties imposed during this period, even if the actual duties due under a section 751 review are greater than the amount of the provisional measures.

As a result of the decision in *Zenith*, the ITA will instruct the U.S. Customs Service to refund the difference between estimated duties and final duties for the relevant period where the estimated duties are higher than the final duties, and not to collect the difference between estimated duties and final duties for the relevant period where the estimated duties are lower than the final duties, but only for entries that were secured by cash deposits. This change in practice applies only to antidumping duty investigations; there is no change for countervailing duty investigations.

This new policy will apply to all merchandise entered after any preliminary less-than-fair-value determination published subsequent to *Zenith's* invalidation of ITA's regulations. The *Zenith* decision was issued on July 29, 1991.

Dated: September 28, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration

[FR Doc. 92-24097 Filed 10-2-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-04]

Synthetic Methionine From Japan; Determination Not To Revoke Antidumping Finding

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

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce has determined not to revoke the antidumping finding on synthetic methionine from Japan because it continues to be of interest to interested parties.

EFFECTIVE DATE: October 5, 1992.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or Melissa G. Skinner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 29470) its intent to revoke the antidumping finding on synthetic methionine from Japan (38 FR 18382, July 10, 1973).

Scope of the Finding

Imports covered by the finding are shipments of DL-Methionine, an animal feed additive, currently classifiable under the Harmonized Tariff Schedule item number 2922.42.50.

Determination Not To Revoke

The Department may revoke a finding if the Secretary of Commerce concludes that the finding is no longer of interest to interested parties. We need not received a request for an administrative review of this finding for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke pursuant to 19 CFR 353.25(d)(4)(i). See 57 FR 29470, July 2, 1992.

On July 17, and 29, 1992, the Degussa Corporation and Novus International, Inc., interested parties, objected in writing to our intent to revoke the finding. We received no further comments. Based on these objections, the Department has concluded that the finding continues to be of interest to interested parties. Therefore, we no longer intend to revoke the antidumping finding on synthetic methionine from Japan.

Dated: September 23, 1992.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 92-24098 Filed 10-2-92; 8:45 am]

BILLING CODE 3510-05-M

Patent and Trademark Office

Advisory Committee for Patents; Establishment

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of establishment.

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2, and the General Services Administration (GSA) rule on Federal Advisory Committee Management, 41 CFR part 101-6, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the Advisory Committee for Patents is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee will advise the Patent and Trademark Office on a broad range of policy and operational matters related to the administration of the Office.

The Committee will consist of at least ten but no more than eighteen members to be appointed by the Assistant Secretary and Commissioner of Patents and Trademarks to assure a balanced representation among patent practitioners, corporate executives; research directors, inventors, the judiciary, professional patent searchers, information specialists and publishers, automation experts, consumer groups, entrepreneurs, and educators.

The Committee will function solely as an advisory body, and in compliance with provisions of the Federal Advisory Committee Act. The charter will be filed under the Act, fifteen days from the date of publication of this notice.

Interested persons are invited to submit comments regarding establishment of this Committee to the Commissioner of Patents and Trademarks, Washington, DC 20231, Attention: Edward R. Kazenske, room 906, Crystal Park 2; Telephone 703/305-8600.

Dated: September 29, 1992.

Douglas B. Comer,

Acting Assistant Secretary and Acting Commissioner of Patents and Trademarks.

[FR Doc. 92-24059 Filed 10-2-92; 8:45 am]

BILLING CODE 3510-16-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

September 30, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 6, 1992.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6705. For information on embargoes and quota re-openings, call (202) 482-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 340/640 is being increased for swing, reducing the limit for Categories 342/642 to account for the swing being applied.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 56 FR 60101, published on November 27, 1991). Also see 57 FR 1905, published on January 16, 1992.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist

only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

September 30, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 13, 1992, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1992 and extends through December 31, 1992.

Effective on October 6, 1992, you are directed to amend further the directive dated January 13, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and India:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
340/640	1,589,360 dozen.
342/642	814,649 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1991.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–24026 Filed 10–2–92; 8:45 am]

BILLING CODE 3510–DR–F

Amendment of Export Visa Requirements for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in the Federative Republic of Brazil

September 29, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements to require manufacturer's identification.

EFFECTIVE DATE: October 15, 1992.

FOR FURTHER INFORMATION CONTACT: Nicole Bivens Collinson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The existing export visa arrangement between the Governments of the United States and the Federative Republic of Brazil is being amended, for goods produced or manufactured in Brazil and exported from Brazil on and after October 15, 1992, to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be provided on the textile visa document.

The name and address of the company should be placed somewhere on the front of the original export visa document, not within the visa stamp. It should be preceded by the label "manufacturer's identification" or "M.I.D." The name is the full name of the company which performs the substantial part of the manufacturing of the product. The address should include the street name or P.O. Box number (if available), and the city and/or province where the manufacturing occurs. In the case of a shipment covered by a single export visa document containing products which are each manufactured by a number of different companies, the name and address of each company involved should be listed on the export visa document. If additional space is needed for listing the name and address of the firms, the back of the export visa document may be used. Responsible officials will make their best efforts to determine the name and address of a firm or firms which best meet the basic criterion of being an actual manufacturer of the product. This information should appear on the export visa document prior to export from Brazil.

See 54 FR 456, published on January 6, 1989.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 29, 1992.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 3, 1989, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Brazil which were not properly visaed by the Government of the Federative Republic of Brazil.

Effective on October 15, 1992, for goods produced or manufactured in Brazil and exported from Brazil on and after October 15, 1992, you are directed to require that the complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa be placed on the textile visa document. This information shall appear on the export visa document prior to export from Brazil.

Shipments entered for consumption, or withdrawn from warehouse for consumption according to this directive which are not accompanied by an appropriate export visa which includes the identification of the manufacturer on the visa document shall be denied entry and a new visa containing this information must be obtained.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 92–24027 Filed 10–2–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Application and Applicable OMB Control Number: DOD FAR Supplement, 252.249–7001, Notification of Substantial Impact on Employment; DD Form 2604; OMB Control Number 0704–0327.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 16 Hours.

Responses Per Respondent: 7.5

Number of Respondents: 114.

Annual Burden Hours: 13,680.

Annual Responses: 855.

Needs and Uses: Section 4201 of the National Defense Authorization Act for Fiscal Year 1991 (Pub. L. 101–510, Division D, Title XLII; Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990) requires the Secretary of Defense to notify the

Department of Labor if a modification or termination of a major defense contract or subcontract will have a substantial impact on employment. The Act defines what constitutes a major defense contract or subcontract and establishes criteria for determining if there is a substantial impact on employment. The statute reflects Congressional concern about the economic impact on communities, businesses, and employees affected by "(1) the annual budget of the President submitted to Congress . . . and any longer-term guidance document of the Secretary of Defense; (2) the public announcement of the realignment or closure of a military installation or defense facility; or (3) the cancellation or curtailment of a major defense contract" (Sec. 4101(a) of Pub. L. 101–510). In order to comply with the requirement to provide prompt notice to the Secretary of Labor, the Department of Defense needs to know if a proposed contract modification or termination will have a substantial impact on employment, as defined in the Act and implemented in the regulation. This information can only be provided by the contractor or subcontractor affected by the modification or termination. The final rule applies to all contract modifications and terminations for convenience of prime contracts over $5 million and subcontracts of $500,000 or more. Contractors may use optional form DD 2604, Notification of Substantial Impact, to provide the required notification.

Affected Public: Businesses or other for-profit organizations; Small businesses or organizations.

Frequency: On occasion.

Respondents Obligation: Voluntary.

OMB Desk Officer: Mr. Peter N. Weiss. Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia, 22202–4302.

Dated: September 29, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–23992 Filed 10–2–92; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Application Form, and Applicable OMB Number: Manufacturing Lead Time Production and Occupational Survey; OMB Control No. 0703–0033

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 1.5 hours.

Responses Per Respondent: 1.

Number of Respondents: 1,600.

Annual Burden Hours: 2,400.

Annual Responses: 1,600.

Needs and Uses: Survey is required to obtain data from shipbuilding industry and other DOD supportive businesses in order to evaluate capability to support current and planned weapon system programs. Information will be used to perform Industrial Base Analyses for Naval Sea Systems Command and Office of the Deputy Assistant Secretary of Defense (Production Resources).

Affected Public: Businesses or other for profit; Federal agencies or employees; and small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: September 29, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 92–23991 Filed 10–2–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Open Meeting—Coastal Engineering Research Board (CERB)

AGENCY: Coastal Engineering Research Board, DOD.

ACTION: Notice of open meeting.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following committee meeting:

Name of Committee: Coastal Engineering Research Board (CERB)

Date of Meeting: October 27–29, 1992.

Place: Hilton Hawaiian Village, Honolulu, Hawaii.

Time: October 27, 8 am–4:45 pm; October 28—8 am–3:30 pm; October 29—8:30 am–2:45 pm

Theme: Pacific Islands Coastal Engineering.

Proposed Agenda: The morning session on October 27 will consist of a review of CERB business; Chief's Charge; and panel presentations to include coastal engineering needs in Hawaii, Guam, America Samoa, Commonwealth of the Northern Mariannas Islands, and Kwajalein Atoll. The afternoon session on October 27 will consist of a panel discussion dealing with R&D applicable to Pacific Islands Needs. Presentations include an introduction; Shoreline Effects of Seawalls/Revetments; Barbers Point; Wave/Surge Numerical Modeling (Kawaihae, Agat, Maalaea); Agat MCCP; Hawaiian Breakwaters MCCP; and Wave Gaging in the Pacific Islands.

October 28 will be devoted to a field trip with an overview prior to departing on the field trip. The following projects will be visited: Barbers Point Deep-Draft Project, Sand Island Shore Protection, Waikiki Project (state project), Bellows Beach, and other beaches dealing with coastal processes.

On October 29, there will be Hurricane Andrew, Typhoon Omar, and Hurricane Iniki updates, presentations entitled Surfrider Foundation and Waikiki Beach Improvement Plan, and recommendations by members of the Board.

This meeting is open to the public; participation by the public is scheduled for 10:00 am on October 29.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements.

2. Oral participation by public attendees encouraged during the time scheduled on the agenda; written statements may be subject prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Leonard G. Hassell, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, 3909 Halls Ferry

Road, Vicksburg, Mississippi 39180–6199.

Kenneth L. Denton,

Army Federal Register, Liaison Officer.

[FR Doc. 92–24023 Filed 10–2–92; 8:45 am]

BILLING CODE 3710–08–M

Regulatory Guidance Letters Issued by the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice.

SUMMARY: The purpose of this notice is to provide a copy of the latest Regulatory Guidance Letter (RGL) to all known interested parties. RGL's are used by the Corps of Engineers as a means to transmit guidance on the permit program (33 CFR Parts 320–330) to its division and district engineers. The Corps of Engineers publishes RGL's in the **Federal Register** upon issuance as a means of informing the public of Corps guidance.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson, Regulatory Branch, Office of the Chief of Engineers at (202) 272–1782.

SUPPLEMENTARY INFORMATION: .

RGL 92–03, Subject: Special Area Management Plans (SAMPs), issued on August 19, 1992, is hereby published as follows:

CECW–OR

Subject: Extension of Regulatory Guidance Letter (RGL) 86–10, subject: "Special Area Management Plans (SAMPs)" is extended until 31 December 1997 unless sooner revised or rescinded.

For the Director of Civil Works.

/s/

John P. Elmore,

Chief, Operations, Construction and Readiness Division.

Directorate of Civil Works

RGL 86–10

Special Area Management Plans (SAMPs)

Issued 10/2/86. Expired 12/31/88.

1. The 1980 Amendments to the Coastal Zone Management Act define the SAMP process as "a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies, standards and criteria to guide public and private users of lands and waters; and mechanisms for timely implementation in specific geographic areas within the coastal zone." This process of collaborative interagency planning within a geographic area of special sensitivity is just as applicable in non-coastal areas.

2. A good SAMP reduces the problems associated with the traditional case-by-case review. Developmental interests can plan with predictability and environmental interests are assured that individual and cumulative impacts are analyzed in the context of broad ecosystem needs.

3. Because SAMPs are very labor intensive, the following ingredients should usually exist before a district engineer becomes involved in a SAMP:

a. The area should be environmentally sensitive and under strong developmental pressure.

b. There should be a sponsoring local agency to ensure that the plan fully reflects local needs and interests.

c. Ideally there should be full public involvement in the planning and development process.

d. All parties must express a willingness at the outset to conclude the SAMP process with a definitive regulatory product (see next paragraph).

4. An ideal SAMP would conclude with two products: (1) appropriate local/state approvals and a Corps general permit (GP) or abbreviated processing procedure (APP) for activities in specifically defined situations; and (2) a local/state restriction and/or an Environmental Protection Agency (EPA) 404(c) restriction (preferably both) for undesirable activities. An individual permit review may be conducted for activities that do not fall into either category above. However, it should represent a small number of the total cases addressed by the SAMP. We recognize that an ideal SAMP is difficult to achieve, and, therefore, it is intended to represent an upper limit rather than an absolute requirement.

5. Do no assume that an environmental impact statement is automatically required to develop a SAMP.

6. EPA's program for advance identification of disposal areas found at 40 CFR 230.80 can be integrated into a SAMP process.

7. In accordance with this guidance, district engineers are encouraged to participate in development of SAMPs. However, since development of a SAMP can require a considerable investment of time, resources, and money, the SAMP process should be entered only if it is likely to result in a definitive regulatory product as defined in paragraph 4 above.

8. This guidance expires 31 December 1988 unless sooner revised or rescinded.

For the Chief of Engineers.

/s/

Peter J. Offringa,

Brigadier General, USA, Deputy Director of Civil Works.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92–24024 Filed 10–2–92; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

Notice of Intent to Prepare an Environnental Impact Statement; for Environmental Restoration and Waste Management Activities at the Idaho National Engineering Laboratory Department of Energy—Idaho Field Office Idaho Falls, ID

AGENCY: Department of Energy.

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for Environmental Restoration and Waste Management (ER&WM) activities at the Idaho National Engineering Laboratory (INEL) in Idaho Falls, Idaho.

SUMMARY: The Department of Energy (DOE), Idaho Field Office (DOE–ID), announces its intent to prepare an EIS pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), in accordance with the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508) and the DOE NEPA Implementing Procedures (57 FR 15122, April 24, 1992, to be codified at 10 CFR Part 1021), and to conduct a series of public scoping meetings. This EIS will address ER&WM activities at INEL. Such activities include decontamination and decommissioning (D&D) of existing facilities, environmental cleanup, waste and spent nuclear fuel (SNF) management and technology development, and infrastructure functions (e.g., roads, power, fire protection, security) in support of environmental restoration and waste management activities. The EIS will analyze the reasonably foreseeable environmental impacts of ongoing and proposed ER&WM activities and alternatives. Although some activities at the INEL are not ER&WM activities and therefore are not part of the proposed action, the cumulative effects of the proposed action and other past, present, and reasonably foreseeable future actions will be included in the EIS.

The EIS will cover the ER&WM activities at the INEL site, an 890-square mile reservation located approximately 35 miles west of Idaho Falls, and facilities located within the city limits of Idaho Falls (*e.g.*, the INEL Research Center). The EIS is intended to assure that the potential environmental impacts associated with the ER&WM activities at the INEL site are documented and factored into DOE decisionmaking, and

it will provide a broad-based environmental baseline from which subsequent INEL NEPA documents can be tiered. In accordance with the CEQ NEPA regulations, DOE is preparing this EIS to focus on significant environmental issues and to consider reasonable alternatives. Two alternatives, the "proposed action" and "no action," are currently being considered.

Under the proposed action, which is DOE's preferred alternative, DOE would continue existing waste and SNF management operations, ongoing site characterization and interim cleanup actions, ongoing D&D activities, and related technology development and supporting infrastructure functions at the INEL site. In addition, as part of the proposed action, DOE would undertake certain near-term (within 5 to 10 years) projects that would enhance waste and SNF management, D&D, and treatment capabilities. Examples of these proposed near-term projects include: mixed and low-level waste treatment and disposal facilities, a hazardous waste storage facility, a waste processing facility, and D&D of the Materials Test and Engineering Test Reactors. In addition, the proposed action includes the overall remedial action process pursuant to a Comprehensive Environmental Response Compensation, and Liability Act (CERCLA) Federal Facility Agreement/Consent Order (FFA/CO), including the integration of treatment, storage, and disposal needs with planned waste management facilities. With respect to SNF, a need exists to safely store SNF and to investigate, test, and, if appropriate, select technologies and process SNF, as well as high-level waste, for disposal in a geologic repository. The EIS will include analysis of the transport, receipt, storage and, as appropriate, processing of SNF associated with ER&WM activities, such as fuel from the Fort St. Vrain nuclear power reactor in Colorado, and will evaluate alternatives for such activities. Additional facilities and expanded D&D efforts that may be needed to support a recent change in mission of the Idaho Chemical Processing Plant (ICPP) also will be addressed.

The no action alternative serves as a benchmark for comparison with the environmental effects of the proposed action alternative. The no action alternative would continue existing waste and SNF management operations, ongoing site characterization and limited interim cleanup activities, ongoing D&D of existing facilities, and related technology development and supporting Infrastructure functions, but would include only those actions necessary for safe and environmentally sound operations, such as routine maintenance. In other words, the no action alternative assumes no major changes to the existing ER&WM practices at the INEL. To the extent the NEPA review for activities is completed and the decision made to proceed with such activities prior to the issuance of the Record of Decision (ROD) for this EIS, these activities will be considered part of the no action alternative.

Under the no action alternative, DOE would not proceed with proposed near-term projects to enhance SNF and waste handling and treatment capabilities at the INEL or carry out proposed cleanups (*i.e.*, those that have not yet been approved under the CERCLA process) under the CERCLA FFA/CO, even though the FFA/CO is an enforceable agreement. Existing hazardous or mixed waste treatment, storage, or disposal (TSD) facilities and interim SNF storage facilities would be maintained in existing configurations without developing additional treatment and storage capacity and without implementing technology development programs to treat wastes and prepare SNF and high-level waste for eventual transport and disposal to a geologic repository. Analysis of the no action alternative also will consider effects from near-term discontinuation or orderly phaseout of the functions and/or facilities associated primarily with waste treatment and/or disposal. Facility maintenance, monitoring, and other necessary follow-on activity to support an orderly phaseout or discontinuation of these waste management functions and/or facilities will be discussed, as appropriate.

DATES: DOE invites interested agencies, organizations, and the general public to submit written comments or suggestions concerning the scope of the issues to be addressed, alternatives to be analyzed, and the environmental impacts to be assessed in the Draft EIS. The public is also invited to attend scoping-meetings in which oral comments and suggestions will be received. Oral and written comments will be considered equally in preparation of the EIS. Results of the scoping meetings (including a summary of comments received, DOE's response to public comments, and an annotated outline of the intended scope and environmental issues to be discussed in the EIS) will be presented in an Implementation Plan (IP) available at the locations listed below and to interested members of the public. The IP also will include DOE's publication schedule for the Draft EIS (DEIS). Those not desiring to submit comments or suggestions at this time, but who would like to receive a copy of the IP and/or the DEIS for review when they are issued, should notify Rob Rothman (see **ADDRESSES**, below) or call the toll-free number 1–800–682–5583. When the DEIS is complete, its availability will be announced in the **Federal Register** and in the local news media, and comments will be solicited on this document.

Written comments postmarked by December 4, 1992, will be considered in preparation of the DEIS. Comments postmarked after that date will be considered to the extent practicable. Oral and written comments will be received at public scoping meetings to be held at the locations and times indicated as follows:

1. Idaho Falls, Idaho, on Thursday November 12, 1992, from 1:00 p.m. to 4:30 p.m. and 6:30 p.m. to 9:30 p.m. at the Westbank Inn, 475 River Parkway.
2. Boise, Idaho, on Monday November 16, 1992, from 1:00 p.m. to 4:30 p.m. and 6:30 p.m. to 9:30 p.m. at the Boise Center, 850 Front St.
3. Twin Falls, Idaho, on Tuesday November 17, 1992, from 1:00 p.m. to 4:30 p.m. and 6:30 p.m. to 9:30 p.m. at the Weston Plaza Hotel, 1350 Blue Lakes Blvd. North.
4. Pocatello, Idaho, on Thursday November 19, 1992, from 1:00 p.m. to 4:30 p.m. and 6:30 p.m. to 9:30 p.m. at the Quality Inn, 155 Pocatello Creek Rd.
5. Moscow, Idaho, on Tuesday November 24, 1992, from 1:00 p.m. to 4:30 p.m. and 6:30 p.m. to 9:30 p.m. at the University Inn, 1516 Pullman Road.

Requests to speak at these meetings may be made by calling the toll-free telephone number, 1–800–682–5583, to facilitate scheduling of speakers. The meetings will be chaired by a presiding officer but will not be conducted as evidentiary hearings; speakers will not be cross-examined although the presiding officer and DOE representatives present may ask clarifying questions.

To ensure that everyone has an adequate opportunity to speak, five minutes will be allotted for each speaker. Depending on the number of persons requesting to speak, the presiding officer may allow more time for elected officials, or speakers representing multiple parties, or organizations. Persons wishing to speak on behalf of organizations should identify the organization in their request. Persons who have not submitted a request to speak in advance of the scoping meetings may register at the meetings and will be called on to speak

if time permits. Written comments will also be accepted at the meetings, and speakers are encouraged to provide written versions of their oral comments for the record. An informal open house will also be held at all meeting locations to allow an opportunity for interactive discussions with DOE personnel and members of the public. Additional information on the procedures DOE intends to follow will be provided in information packets available in advance of the meetings during normal business hours at the following locations:

1. INEL Public Reading Room, University Place, 1776 Science Center Drive, Idaho Falls, ID
2. Idaho Falls Public Library, 457 Broadway, Idaho Falls, ID
3. Pocatello Public Library, 812 East Clark, Pocatello, ID
4. Twin Falls Public Library, 434 2nd Street East, Twin Falls, ID
5. Boise Public Library, 715 South Capitol Boulevard, Boise, ID
6. University of Idaho Library, Government Document Department, Rayburn Street, Moscow, ID
7. Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC.

Transcripts of each meeting will also be made available at these locations.

ADDRESSES: Written comments or suggestions on the scope of the DEIS should be submitted to Mr. Rob S. Rothman, ER&WM EIS Project Manager, U.S. Department of Energy, Idaho Field Office, P.O. Box 1625, Idaho Falls, Idaho 83415–1570. Envelopes should be marked "Attention: INEL ER&WM EIS". Requests to speak at the scoping meetings, and requests for additional information, may be submitted to Mr. Rothman in writing or by using the toll free telephone number 1–800–682–5583.

General information on the DOE NEPA process may be obtained from the Office of the Assistant Secretary for Environment, Safety and Health, Ms. Carol Borgstrom, Director, Office of NEPA Oversight, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. Ms. Borgstrom may be reached by phone at (202) 586–4600 or 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

The INEL was established in southeastern Idaho in 1949 as a site where nuclear reactors, support facilities, and equipment could be safely built, tested, and operated. In 1975, INEL was designated as a National Environmental Research Park. One function under this designation is to advance science and technology related to environmental characterization and restoration of DOE reservations. Research and development of environmental restoration and waste management technology have been major thrusts of INEL activities.

Today, the INEL is a multi-disciplinary DOE laboratory primarily located outside Idaho Falls (approximately 35 miles west on an 890–square mile reservation) with additional facilities located within the city limits of Idaho Falls (such as the computer center, office buildings, and a major laboratory (the INEL Research Center)). The INEL site maintains a 164-mile network of paved roads and operates its own government-owned passenger bus fleet which transports 4000 to 5000 commuting employees daily between the INEL site and surrounding communities. A government-owned railroad spur is used to carry heavy materials, including radioactive material transport casks, to waste management and other facilities.

Commercial power is transmitted to the INEL site through the Antelope Substation owned by Utah Power and Light Company. In addition, the Liquid Metal Breeder Reactor at Argonne National Laboratory-West contributes 15 megawatts of electrical power to the INEL site power transmission loop. Medical services are provided through an INEL occupational program at medical facilities located at the INEL site and in Idaho Falls. Fire protection is provided by three fire stations at the INEL site which respond to fire, medical, rescue, and other emergency situations. INEL facilities in Idaho Falls are serviced by city and county emergency units. Safeguards and security functions provide physical and personnel security and material control and accountability services.

The INEL is responsible for (a) application of its engineering and scientific capabilities in the operation of defense production and materials testing facilities and in support of national security interests involving arms control and intelligence technologies; (b) development of engineering information and approaches relevant to nuclear reactor safety and advanced design of reactor systems/components; (c) development, transfer, and deployment of technologies to minimize generation and/or disposal of hazardous, mixed, and/or radioactive waste and for remediation/restoration of previous disposal sites to protect the public, workers, and the environment; and (d) receipt and storage of SNF resulting from DOE (and other) research, development, test, demonstration, power and isotope production, and propulsion programs. In the past, much of the SNF shipped to INEL was routinely reprocessed at the ICPP for the recovery of highly enriched uranium; however, DOE recently announced that SNF will no longer be reprocessed at the ICPP.

Operations at the INEL over the past decades have resulted in the generation of radioactive, hazardous, and mixed waste (waste containing both hazardous and radioactive constituents). Some of these wastes continue to be generated and/or stored on the INEL site. In addition to INEL-generated wastes, mixed and transuranic (TRU) wastes from off-site locations have been shipped to the INEL for management.

Many of the currently operating ER&WM-related facilities at the INEL are more than 30 years old. These facilities were designed to meet the environmental requirements and health standards applicable at the time of their design and construction. To continue operations at these facilities, enhanced environmental controls and remediation of contamination are necessary to ensure compliance with current environmental requirements. DOE is committed to upgrading and/or remediating these facilities in order to comply with all applicable or relevant and appropriate requirements and to protect the environment, the public, and worker health and safety.

Waste management activities have been studied and implemented at the INEL since 1949. In 1977, the DOE evaluated activities at its INEL waste management facilities and conducted an assessment of ongoing waste management operations (*Final Environmental Impact Statement, Waste Management Operations, Idaho National Engineering Laboratory*, ERDA–1536).

Current Practices for Waste Management

Waste management operations at the INEL include treatment, storage, and disposal of wastes generated by ongoing nuclear energy, energy research, and defense activities; by environmental restoration activities; and by other sources. These operations apply to high-level radioactive waste (HLW), low-level radioactive waste (LLW), TRU waste, mixed waste (MW), greater-than-class C (GTCC) waste, hazardous waste (HW), and industrial and sanitary wastes.

Programs have been implemented, and more are planned, to prevent pollution and minimize the quantities of wastes generated during remedial actions and ongoing operations.

Current Practices for Spent Fuel Management

SNF resulting from DOE (and other) research, development, test, demonstration, power and isotope production, and propulsion programs over the years has been and continues to be received and placed into storage at the INEL. Until recently much of the SNF at INEL was routinely reprocessed at the ICPP for the recovery of highly enriched uranium; however, DOE announced in April 1992 that SNF will no longer be reprocessed at the ICPP. SNF is currently stored in various dry and wet storage facilities at the ICPP and other INEL locations. Additional facilities and expanded D&D efforts that may be needed to support the change in mission of the ICPP will be addressed in this EIS.

SNF at the INEL will ultimately be disposed of in a geological repository. To continue to receive SNF for storage at INEL, DOE will need increased storage capacity to safely store SNF until its eventual transport to a repository. As part of the proposed action, the EIS will address current INEL SNF storage configurations, the need for modifications to existing facilities or additional storage capacity, proposed SNF receipt for storage, and disposition of the current and anticipated inventory of SNF at INEL.

Current Practices for Environmental Restoration and D&D

ER activities include characterization of inactive waste sites to determine the nature and extent of contamination, development and implementaion of remedial action alternatives, and the development of characterization and remedial action technologies. In addition, various technologies applicable to remedial actions are being tested and evaluated in laboratory settings and field demonstrations. Examples of potential remedial technologies include in situ vitrification, vapor vacuum extraction, soil farming, and bioremediation. D&D consists of surveillance, maintenance, characterization, analysis, and cleanup of contaminated facilities under the ER&WM program.

ER activities at the INEL include projects currently underway pursuant to a FFA/CO developed through the joint efforts of DOE, the U.S. Environmental Protection Agency (EPA), and the State of Idaho Department of Health and Welfare. The FFA/CO, signed December 9, 1991, fulfilled a CERCLA requirement arising when the INEL was added to EPA's National Priorities List in 1989. The FFA/CO establishes the technical requirements and schedules for characterization, feasibility assessment, and cleanup at each potentially contaminated area at the INEL pursuant to CERCLA. In addition to the compliance actions related to statutory and regulatory requirements, expanded programs for monitoring of waste, groundwater, and air have been undertaken. Further, some nuclear facilities at the INEL are no longer in use and are either already scheduled for, or will eventually require, D&D to assure continued environmental and human health protection and compliance with DOE requirements.

Current Practices for Technology Development

To support DOE's goal for cleanup of its sites by the year 2019 and to reduce program costs, DOE has established an aggressive applied research, development, demonstration, testing, and evaluation program. The Technology Development (TD) Program is responsible for developing new technologies or refining existing technologies to provide needed support in several areas of waste management and environmental restoration. Examples include technology to deal with remediation of buried waste at the Radioactive Waste Management Complex, innovative means for waste minimization, and treatment processes for certain waste streams. These activities are included within the environmental restoration and waste management alternatives and, thus, will not have separate alternatives presented in this EIS.

Relationship to Other DOE NEPA Actions

The DOE ER&WM Programmatic EIS (PEIS) will address DOE complex-wide issues and alternatives for environmental restoration and waste management policies and practices. The NOI for the DOE ER&WM PEIS was published on October 22, 1990 (55 FR 42633). DOE announced the availability of a draft Implementation Plan for the ER&WM PEIS on February 4, 1992 (57 FR 4193). Similarly, DOE is preparing a PEIS addressing alternatives for reconfiguration of the DOE nuclear weapons complex. The NOI for the Reconfiguration PEIS was published on February 11, 1991 (56 FR 5590). DOE announced the availability of an Implementation Plan for the Reconfiguration PEIS on March 2, 1992 (57 FR 7371). The INEL ER&WM EIS will not address in detail the alternatives or issues being addressed in these PEISs, but will describe its relationship to these PEISs. Because of the close timing of these three EISs, their preparation is being coordinated. The INEL ER&WM EIS will discuss how issues addressed in these Programmatic EISs on DOE complex-wide policies and practices could affect the INEL ER&WM alternatives analysis. To the extent that INEL site-specific actions or alternatives are affected by decisions reached on broader programmatic issues, the INEL ER&WM EIS will be reviewed and supplemented, as necessary, to assure consistency.

Under the Nuclear Waste Policy Act of 1982 (42 U.S.C 10101 *et seq.*), as amended, DOE is currently conducting detailed studies of the suitability of Yucca Mountain, Nevada, as the candidate site for the United States' first geologic repository for disposal of high-level waste and spent nuclear fuel. In addition, under the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (42 U.S.C. 7272 *et seq.*), as amended, DOE is developing the Waste Isolation Pilot Plant (WIPP) in Carlsbad, New Mexico, to demonstrate the safe disposal of defense-generated TRU waste. The environmental impacts associated with the construction and use of these facilities are or will be addressed in separate NEPA documentation and will not be addressed in this EIS.

Ongoing ER&WM operations and supporting activities at the INEL will continue during preparation of this EIS. Actions that are proposed to precede the issuance of the ROD for this EIS will be evaluated according to criteria for permissible interim actions in the CEQ Regulations for Implementing NEPA. Some examples of potential proposed actions that may precede the ROD for this EIS include the following projects: the Waste Characterization Facility, the Solid Waste Transfer Station at the Central Facilities Area (CFA), Transportation Complex (Bus Barn), a Sewer System Upgrade, various D&D projects, and the Fuel Storage Area Rack Reconfiguration.

In addition, an Environmental Assessment for the high-level waste tank replacement program and an Environmental Assessment for expanded capabilities of the WERF incinerator are currently under preparation and decisions on these actions are expected to precede the ROD. Individual environmental restoration projects under CERCLA may be the subject of integrated CERCLA/NEPA documents as provided in DOE Order 5400.4. These documents will address the impacts of individual cleanup actions as the actions are planned. Decisions on these or any other

potential proposed activities determined to be permissible prior to the issuance of the ROD for this EIS will be referenced as part of the baseline analyzed in the no action alternative. The INEL ER&WM EIS will reference and incorporate, as appropriate, analyses and discussion presented in other DOE NEPA documents to assure consistency and comprehensive consideration of ER&WM-related activities.

Preliminary Description of Alternatives

Two alternatives are currently being considered for detailed analysis in the EIS.

1. Proposed Action

As part of the proposed action, DOE proposes to continue existing ER&WM activities. Such activities include D&D of existing facilities, environmental cleanup, waste and SNF management and technology development, and infrastructure functions (e.g., roads, power, fire protection, security). In addition, DOE would add to these existing and ongoing activities those proposed near-term projects and new activities that could be initiated within a 5 to 10 year timeframe following issuance of the ROD for this EIS, to the extent such projects and activities can be sufficiently described to allow an evaluation of their potential environmental impacts. The proposed near-term waste management projects would enhance waste handling and treatment capabilities through study, demonstration, and full scale implementation of new technologies. With respect to SNF, there is a need to increase existing storage capacity for ongoing and proposed new receipts while DOE investigates, tests, and if appropriate selects technologies to prepare SNF, as well as high-level waste, for disposal in a geologic repository. DOE proposes to increase storage capacity by modifying existing facilities. Storage alternatives at INEL will be addressed. In addition, the proposed action will include the overall remedial action process pursuant to the FFA/CO, including the integration of treatment, storage, and disposal needs with planned waste management facilities.

Proposed near-term projects that will be considered as part of the proposed action fall into the following general categories: (a) facility upgrades, modifications, or renovations; (b) new construction projects, such as waste TSD facilities; and (c) D&D. Examples of these proposed near-term projects include mixed and low-level waste treatment and disposal facilities, a hazardous waste storage facility, a waste processing facility, and D&D of the Materials Test and Engineering Test reactors. Additional facilities and expanded D&D efforts may also be needed to support the change in mission at the ICPP. These proposed projects and activities are intended to reduce risks to workers, the environment, and the general public.

The EIS will analyze the reasonably foreseeable impacts, including those that may result from normal operations and from various accident scenarios, of current and proposed ER&WM activities. The EIS also will describe potential impacts associated with alternative locations at the INEL site for proposed near-term ER&WM projects or facilities. Some ongoing and proposed activities at the INEL are not ER&WM activities and therefore will not be considered as part of the proposed action. Nevertheless, the cumulative impacts to be considered in this EIS will include the incremental impacts from the proposed action added to the impacts from normal operations of non-ER&WM activities. For example, while the receipt of SNF at the ICPP from Naval Reactors Facility (NRF) is a waste management activity that will be analyzed in the ER&WM EIS, the transportation of SNF to the NRF and the inspection and research of SNF at the NRF are not ER&WM activities and therefore not part of the proposed action to be analyzed in the ER&WM EIS. However, the cumulative impacts of these non-ER&WM activities and the proposed action will be considered.

2. The No Action Alternative

The no action alternative serves as a benchmark for comparison with the environmental effects of the proposed action alternative. The no action alternative consists of continuing present ER&WM practices at the INEL without implementing proposed near-term ER&WM projects and activities. In other words, the no action discussion will focus on no major changes to the existing ER&WM practices at the INEL. To the extent that the NEPA review for activities has already been completed or is expected to be completed and the decision made to proceed prior to the issuance of the ROD for this EIS, these activities will be considered part of the status quo or no action alternative.

No new proposals or actions would be implemented under the no action alternative. Existing hazardous or mixed waste treatment, storage, or disposal facilities, and interim SNF storage facilities would be maintained in existing configurations without developing additional treatment or storage capacity, and without implementation of technology development programs to treat high-level waste and, if necessary, SNF for eventual transport to a geologic repository. No further receipt of SNF from Fort St. Vrain would occur. Ongoing receipt of SNF would continue subject to availability of adequate storage capacity. Proposed D&D activities would not be undertaken.

The analysis of the no action alternative will also consider what the effects would be from a near-term discontinuation or orderly phaseout of those functions and/or facilities associated primarily with waste treatment and/or disposal. However, passive storage, surveillance, and associated maintenance activities would continue. Examples of functions or facilities that may be assessed for discontinuation or phaseout include receipt of off-site waste, treatment of low-level and mixed waste at the WERF incinerator, and calcination of high-level liquid waste stored at the ICPP.

The implementation of this alternative in some respects would be contrary to the mandates of some applicable requirements and the FFA/CO. Analysis of the no action alternative is required by the Council on Environmental Quality regulations implementing NEPA. Analysis of the no action alternative is also required on an operable unit basis by the Environmental Protection Agency's regulations/guidelines for Feasibility Studies under CERCLA.

Preliminary Identification of Environmental Issues

The following issues, subject to consideration of comments received in response to public scoping, have been tentatively identified for analysis in the ER&WM EIS. This list is presented to facilitate public comment on the scope of the ER&WM EIS. It is not intended to be all inclusive nor is it intended to be a predetermination of impacts.

1. Potential impacts to the public and on-site workers from radiological and nonradiological releases caused by activities to be conducted within the context of the proposed action and alternative(s).

2. Potential environmental impacts, including air and water quality impacts, caused by the proposed action and alternative(s).

3. Potential transportation impacts of on-site and off-site shipments of radioactive or hazardous material, SNF, and radioactive, hazardous, or mixed waste as a result of the proposed action and alternative(s).

4. Potential effects on endangered species, floodplain/wetlands, and

archaeological/historical sites as a result of the proposed action and alternative(s).

5. Potential impacts from postulated accidents as a result of the proposed action and alternative(s).

6. Potential socioeconomic impacts to the surrounding communities as a result of implementing the proposed action and alternative(s).

7. Cumulative impacts from the proposed action and other past, present, and reasonably foreseeable future actions.

8. Potential irreversible and irretrievable commitment of resources.

Dated in Washington, DC this 29th day of September for the United States Department of Energy.

Paul L. Ziemer,

Assistant Secretary for Environment, Safety, and Health.

[FR Doc. 92–24107 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Awards; Central State University

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to Central State University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(C), which authorizes a financial assistance award to be made noncompetitively if the applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity, AL gives notice of its plans to award a four-year renewal grant to Central State University, Wilberforce, Ohio, for its Cooperative Education Program. The total estimated cost of the project is $75,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to advance the development of human potential, to strengthen the capacity of Historically Black Colleges and Universities to provide quality education, and to overcome the effects of discriminatory treatment. AL is sponsoring this program under Executive Order 12320, dated September 15, 1981, to improve the recruitment and participation of students of Historically Black Colleges and Universities in full-time employment with the DOE upon successful completion of educational requirements and work performance. The particular significance of the activity to be funded is to increase availability of underrepresented groups in the business and engineering disciplines.

FOR FURTHER INFORMATION CONTACT: M. Laurene Dubuque, U.S. Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, New Mexico 87185–5400, Telephone: (505) 845–4301.

Issued in Albuquerque, New Mexico, on September 17, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–24103 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

Morgantown Energy Technology Center; Cooperative Agreement; Financial Assistance Award to Char-Fuel Associates, LTD

AGENCY: Morgantown Energy Technology Center, Department of Energy (DOE).

ACTION: Notice of acceptance of a noncompetitive financial assistance application for award of a cooperative agreement.

SUMMARY: Based upon a determination made pursuant to 10 CFR 600.7(b)(2)(i)(B) the DOE, Morgantown Energy Technology Center gives notice of its plans to award a cooperative agreement to the Char-Fuel Associates, LTD, A Wyoming Limited Partnership, 5105 DTC Parkway, suite 317, Englewood, CO 80111 for the project entitled, "Pilot Scale Demonstration of Charfuel Coal Refining Process." The effort will take nine months to complete. The additional effort has an associated budget of approximately $2,154,953; the proposed DOE share is $249,990 and the proposed cost share is $1,904,963.

FOR FURTHER INFORMATION CONTACT: Mary C. Spatafore, I–07, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, Morgantown, West Virginia 26507–0880, Telephone: (304) 291–4253, Procurement Request No. 21–92MC29268.000.

SUPPLEMENTARY INFORMATION: The objective of this action is to provide support in developing a novel, short residence time, hydrocracking technology which employs rearrangement of hydrogen inherent in the feedstock to refine coal in a manner similar to petroleum refining. The primary refinery produce will be Charfuel fluidic fuel, a "slurry type" boiler fuel, which is an admixture of char, process-derived hydrocarbon liquids, and as needed, a small amount of water or wet methanol. The proposed product is a compliance slurry fuel derived by hydropyrolysis of high sulfur eastern coals or western subbituminous coals and can be of value to American industry, including the electric utilities, as a boiler and furnace fuel. DOE support will facilitate commercialization of the process which could ultimately lead to a decreased dependence on imported petroleum. To date, the participant has completed ninety percent of the design phase; DOE support will facilitate installation and operation. Furthermore, DOE knows of no other entity conducting this specific activity as the process is novel and unique to Char-Fuel.

Issued in Washington, DC, September 25 1992.

Louie L. Calaway,

Director, Acquisition and Assistance Division, Morgantown Energy Technology Center.

[FR Doc. 92–24108 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award; Langston University

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to Langston University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(C), which authorizes a financial assistance award to be made noncompetitively if the applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity, AL gives notice of its plans to award a four-year renewal grant to Langston University, Langston, Oklahoma, for its Cooperative Education Program. The total estimated cost of the project is $75,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to advance the development of human potential, to strengthen the capacity of Historically Black Colleges and Universities to provide quality education, and to overcome the effects of discriminatory treatment. AL is sponsoring this program under Executive Order 12320, dated September 15, 1981, to improve the recruitment and participation of

students of Historically Black Colleges and Universities in full-time employment with the DOE upon successful completion of educational requirements and work performance. The particular significance of the activity to be funded is to increase availability of underrepresented groups in the business and engineering disciplines.

FOR FURTHER INFORMATION CONTACT: M. Laurene Dubuque, U.S. Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, New Mexico 87185–5400, Telephone: (505) 845–4301.

Issued in Albuquerque, New Mexico, on September 17, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–24105 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

Noncompetitive Financial Assistance Award; Prairie View A&M University

AGENCY: Albuquerque Field Office (AL), Department of Energy (DOE).

ACTION: Notice of noncompetitive financial assistance application for a grant to Prairie View A&M University.

SUMMARY: Based upon a determination pursuant to 10 CFR 600.7(b)(2)(i)(C), which authorizes a financial assistance award to be made noncompetitively if the applicant is a unit of government and the activity to be supported is related to performance of a governmental function within the subject jurisdiction, thereby precluding DOE provision of support to another entity, AL gives notice of its plans to award a four-year renewal grant to Prairie View A&M University, Prairie View, Texas, for its Cooperative Education Program. The total estimated cost of the project is $75,000. No cost sharing is anticipated. The distribution and availability of funds is subject to budget limitations. The public purpose to be served by this award is to advance the development of human potential, to strengthen the capacity of Historically Black Colleges and Universities to provide quality education, and to overcome the effects of discriminatory treatment. AL is sponsoring this program under Executive Order 12320, dated September 15, 1981, to improve the recruitment and participation of students of Historically Black Colleges and Universities in full-time employment with the DOE upon successful completion of educational requirements and work performance. The particular significance of the activity to be funded is to increase availability of underrepresented groups in the business and engineering disciplines.

FOR FURTHER INFORMATION CONTACT: M. Laurene Dubuque, U.S. Department of Energy Albuquerque Field Office, Contracts and Procurement Division, P.O. Box 5400, Albuquerque, New Mexico 87185–5400, Telephone: (505) 845–4301.

Issued in Albuquerque, New Mexico, on September 17, 1992.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc. 92–24104 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 2641–000 New York]

Niagara Mohawk Power Corp.; Availability of Environmental Assessment

September 29, 1992.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new transmission line license for the existing Feeder Dam Transmission Line Project located on the Hudson River in Saratoga County, near the Town of Moreau, Village of South Glen Falls, New York, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24045 Filed 10–2–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–004]

Frontier Gas Storage Co.; Compliance Filing

September 25, 1992.

Take notice that on September 12, 1992, Frontier Gas Storage Company (Frontier), in compliance with the provisions of the Commission's February 13, 1985 Order in Docket Nos. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to 3 Bcf of Frontier's gas storage inventory on an "as metered" basis to Prairielands Energy Marketing, Inc.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985 Order, Frontier is "authorized to commence this sale of its inventory under such an executed service agreement fourteen days after the filing of the agreement with the Commission and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Any person desiring to be heard or to make a protest with reference to Frontier's filing should, on or before October 16, 1992, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, DC 20426) a motion to protest in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24043 Filed 10–2–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP85–221–005]

Frontier Gas Storage Co.; Sale Pursuant to Settlement Agreement

September 29, 1992.

Take notice that on September 23, 1992, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., NW., Washington, DC 20004, in compliance with the provisions of the Commission's February 13, 1985 Order in Docket No. CP82–487–000 *et, al.*, submitted an

executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of up to 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to Hiland Partners (Hiland).

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985 Order, Frontier is "authorized to commence this sale of its inventory under such an executed service agreement fourteen days after the filing of the agreement with the Commission and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Frontier makes the request that a waiver of the fourteen-day notice requirement of Subpart (b) above be granted to permit Frontier to commence service under the agreement on October 1, 1992. Frontier notes that it has filed this service agreement at its earliest opportunity—one day after the service agreement was executed. Frontier will proceed in accordance with the requested waiver, unless it receives a notification to the contrary from the Commission.

Any person desiring to be heard or to make a protest with reference to said filing should, on or before October 20, 1992, file with the Federal Energy Regulatory Commission (825 North Capitol Street, NE., Washington, DC 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Louis D. Cashell,

Secretary.

[FR Doc. 92–24044 Filed 10–2–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–731–000]

Texas Sea Rim Pipeline, Inc.; Petition for Declaratory Order

September 29, 1992.

Take notice that on September 24, 1992, Texas Sea Rim Pipeline, Inc. (TSR) 12450 Greenspoint Drive, Houston, Texas 77060–1991, filed in Docket No. CP92–731–000, a petition for Declaratory Order finding that the primary function of its facilities is "gathering" and that the operation of those facilities is exempt from the Commission jurisdiction in accordance with Section 1(b) of the Natural Gas Act, 15 U.S.C. 717 *et seq.*

TSR states that its facilities are comprised of two distinct pipeline systems, one interstate and the other intrastate. The interstate line, the subject of this request, is 14-inch in diameter, 14.1 mile long which begins offshore TX and terminates at the intake side of the Jefferson County, TX, separation plant. This line, as alleged by TSR, provides a gathering service of offshore production onshore.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 9, 1992, filed with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). 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.

Lois D. Cashell,

Secretary.

[FR Doc. 92–24012 Filed 10–2–92; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 92-104-NG]

Great Falls Gas Co., Application for Long-Term Authorization To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt of an application filed by Great Falls Gas Company (GFGC) on August 10, 1992, as supplemented August 24, 1992, for authorization to import natural gas from Canada. GFGC proposes to import for system supply up to 5,000 Mcf's of gas per day on a firm basis and an additional 5,000 Mcf's per day on an interruptible basis from November 1, 1992, through October 31, 2007. The gas would be imported into the United States at an existing interconnection of the pipeline systems of NOVA Corporation of Alberta (NOVA) and Montana Power Company (MPC) near Carway, Alberta/Babb, Montana.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, November 4, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Allyson C. Reilly, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-094, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9394.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION: GFGC is a corporation organized under the laws of the State of Montana with its principal place of business in Great Falls, Montana. It operates a natural gas distribution system in Montana that supplies residential, commercial and industrial customers, including a United States Air Force Base. Currently, GFGC receives natural gas from MPC which provides two thirds of the supply under a bundled tariff contract. The remaining gas supply comes from production contracts with producers in the State of Montana. According to GFGC, under Montana Public Service Commission Order No. 5474c, issued October 31, 1991, GFGC will only be allowed to take one third of its total supply from the bundled MPC gas contract for the heating season beginning September 1, 1992. GFGC will not be permitted to take any gas supply from the MPC supply contract for the heating season beginning September 1, 1993, or any subsequent time period.

The natural gas proposed to be imported would be purchased by GFGC under an agreement with Shell Canada Limited (Shell) dated July 30, 1992. The agreement is for a term of 15 years commencing November 1, 1992. Either party may terminate the agreement at

the end of the fifth and tenth contract year upon 27 months notice. The maximum daily quantity (MDQ) is 5,000 Mcf with a provision for the delivery of up to 5,000 Mcf of interruptible volumes. The agreement defines the annual contract quantity (ACQ) as the sum of the MDQ's in any year. Although there are no take-or-pay provisions, if GFGC's purchases of gas over a contract year are less than 80 percent of the ACQ, then Shell may reduce the MDQ and ACQ in the following contract year unless the shortfall is made up in the subsequent year.

The contract's pricing structure for firm gas deliveries consists of four parts which include two tiers of commodity prices based on the volume taken. The first component of the import price is a demand charge equal to Shell's actual cost of reserving the firm transportation required to deliver the gas on NOVA to Carway. The second component is a reservation charge set at $0.06 (U.S.) per MMBtu for the first two contract years. The third component is a commodity charge for the quantity of gas taken up to 65 percent of the ACQ (referred to as Tier I Gas) which would be $1.31 (U.S.) per MMBtu in the first two years. The last component is a commodity charge for the balance of the gas taken under the contract in excess of Tier I Gas up to the ACQ (referred to as Tier II Gas) which will be negotiated by the parties prior to the end of each previous month. If no agreement is reached on a new price for Tier II Gas, the index for Alberta gas published in Natural Gas Week will be used as the price. With respect to the price for interruptible quantities of gas purchased by GFGC, it would be established on a monthly basis by negotiation between the parties.

The demand charge and the reservation charge must be paid by GFGC each month regardless of the quantity of gas purchased. After the second contract year, the commodity charge for Tier I Gas and the reservation charge will be set by price renegotiation. If renegotiation is unsuccessful, then either party may request arbitration. The demand charge is not subject to redetermination.

The decision on GFGC's application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In a long-term arrangement such as this, other matters that will be considered in making a public interest determination include need for the gas and security of the long-term supply. Parties, especially those that may oppose this application, should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as they relate to the requested import authority. The applicant asserts that imports made under this arrangement would be competitive and secure. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of GFGC's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 29, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92–24112 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 92–72–NG]

Intalco Aluminum Co., Order Granting Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of an order.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Intalco Aluminum Corporation blanket authorization to import up to 2 Bcf of natural gas from Canada over a two-year term, beginning on the date of first import delivery after September 28, 1992.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 28, 1992.

Charles F. Vacek,

Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 92-24113 Filed 10-2-92; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Final 1994 Power Marketing Plan, Central Valley Project, CA

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of the final 1994 Power Marketing Plan governing allocation of 529.946 megawatts (MW) of power, final allocation of 500.824 MW of power to existing customers, and proposed allocation of the remaining 29.122 MW.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing agency of the DOE, hereby announces its 1994 Power Marketing Plan (Plan) for the Central Valley Project (CVP), California. The Plan consists of Western's decision regarding the amount of power to be marketed, the terms and conditions under which that power shall be marketed, and the final allocation of 500.824 MW of power to existing customers. The Plan will be complete upon publication of the final allocation of the remaining 29.122 MW of power (the 29.122 MW). Western's decision to allocate power to existing customers was published in the proposed Plan, set forth in 56 FR 41683, August 22, 1991. The public has commented on the allocation of power to existing customers, and a discussion of the comments received is included in this notice. Western may enter into contracts for the sale of power to existing customers under this plan after publication of this notice. Western may enter into contracts for the sale of the 29.122 MW of power after the publication of final allocations in the **Federal Register**. The electric service contracts for the 500.824 MW of power marketed under this plan to existing customers will be effective when signed by both the customer and Western. Electric service contracts for the 29.122 MW of power will be effective on the later of July 1, 1994, or when signed by the customer and Western.

The list of new customers who have received a proposed allocation of the 29.122 MW of power is subject to change. The list of final allocations for this power will be published after a 3-day comment period. Only comments relevant to the proposed allocations will be accepted during this 30-day period. The notice of the final allocations for the 29.122 MW of power will address responses to the comments received during the comment period.

DATES: Written comments on the proposed allocations of the 29.122 MW of power must be received at the address set forth below no later than 5 p.m., local time, November 4, 1992. Western will address each comment prior to publishing the final power allocations in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Inquiries and written comments regarding the proposed allocations should be directed to: David G. Coleman, Area Manager, Sacramento Area Office, Western Area Power Administration, 1825 Bell Street, Suite 105, Sacramento, CA 95825-1097, (916) 649-4418.

All documentation made or retained by Western for the purpose of developing the Plan and allocations is available for inspection and copying at this address.

SUPPLEMENTARY INFORMATION:

Background

Western formally initiated the development of the Plan with a January 31, 1989, public information meeting. In a brochure distributed at that meeting, Western explained the need for a power marketing plan for the marketing of CVP power that would become available with the expiration of certain power contracts on or about June 30, 1994. Western then published 54 FR 33064, August 11, 1989, which outlined four alternatives that Western believed would define options to market the CVP resource. One of the alternatives was designated as the draft power marketing plan in order to facilitate the public review process. The notice informed the public that Western would conduct an environmental assessment (EA) on the range of alternatives to determine whether any of the alternatives would result in significant impacts to the environment in accordance with the National Environmental Policy Act (NEPA) and its implementing regulations. Dates were announced for public meetings for Western to accept comments on the alternative marketing plans and on the scope of the EA.

The public information meeting was held on September 12, 1989, with the public comment forum following on October 20, 1989. The formal comment period ended on November 20, 1989. After considering the comments received during the comment period, Western added various options to each of the alternatives and prepared an EA to determine the environmental effects on the range of the alternative marketing plans. On April 24, 1991, the DOE issued a finding of no significant impact (FONSI) on the human environment based on Western's EA. Western then used all available information gathered in the public process and developed the proposed Plan which was published in 56 FR 41683, August 22, 1991.

Western held a public information forum on the proposed Plan on August 27, 1991. A public comment forum followed on September 16, 1991, to accept oral and written comments on the proposed Plan. The 30-day formal comment period ended October 16, 1991. Approximately 100 comments were received from nearly 40 sources. These comments are addressed in this notice. The comments included requests for increased power allocations, the inclusion of forthcoming Energy Planning and Management Program conditions in new contracts under the marketing plan, and a clarification of the general allocation criteria.

One comment by the National Wildlife Federation suggested that Western withdraw its proposed Plan in order to prepare an environmental impact statement (EIS) on alternative actions that would be likely to affect the environment. Western representatives met with representatives of the National Wildlife Federation and discussed various aspects of the Plan, the relationship between CVP water and power operations, and potential environmental impact issues. Western representatives indicated in the discussions that the concurrent expiration of all CVP power contracts in the year 2004 offers the first opportunity to comprehensively investigate new methods of managing the CVP power resources. The expiration of power contracts in the year 2004 coincides with the expiration of Contract No. 14-06-200-2948A (Contract 2948A),which is the contract between Pacific Gas & Electric Company (PG&E) and Western which provides for the firming of the CVP resource, sales, exchanges, and transmission of electric power. Western intends to initiate the public process for the preparation of an EIS on post-2004 CVP power marketing in the near future.

Western also received letters from members of Congress requesting an explanation of the basis for Western's decision not to prepare an EIS on the proposed Plan. Responses to the letters were prepared by Western and are available upon request. Western responded that an EA was the appropriate level of NEPA consideration for the Plan due to the legislative

priorities for the operation of the CVP, the presence of reregulation dams immediately downstream of the major generation facilities, and Contract 2948A.

In considering these comments, Western determined that additional analysis could benefit the EA, and the decision was made to revise the EA.

Western published a notice in the **Federal Register**, 57 FR 17904, April 28, 1992, to bring the public up to date regarding the revision of the EA. In order to formally determine the demand for CVP power, that notice also called for applications for power under the Plan. Western received 96 applications for power under this Plan by the deadline of May 28, 1992. Sixty-three existing customers, including 4 customers who presently receive CVP power under contracts terminating in 2004, and 33 other entities applied for an allocation. After the applications were received, a letter with a copy of the prototype contract was sent to each applicant on June 18, 1992.

The additional environmental studies have now been completed, the EA has been revised, and a subsequent FONSI has been issued by DOE on September 21, 1992. The additional studies include an analysis of the impacts of the alternatives downstream from the CVP dams. The revised EA also contains expanded descriptions of the existing environment, provides a clarification of the operation of the CVP system, and includes a description of the studies conducted for the EA.

This Plan falls within the range of alternatives studied for the EA. Due to the nature of the public and environmental decision making process, environmental studies must be underway before Western knows what entities will apply for power, and completed before the publication of the final marketing plan. There is, at that time, an infinite number of possible plans that could eventually be adopted. Therefore, in order to appropriately study the environmental effects of our actions, Western has chosen alternatives that represent the range of possible marketing plans that could eventually be adopted. Four alternatives, with certain options relevant to the alternatives, were studied for the revised EA. They ranged from the "termination" alternative, under which no power would be marketed, to an alternative under which all available power would be marketed.

With this notice, Western allocates the same amount of power to the 59 existing customer applicants that they receive under contracts expiring in 1994, and proposes to allocate power to 4 of the 33 applicants that are not now customers of Western. Western also proposes to reserve 21 MW of Diversity Power so that it may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that power is withdrawn.

Summary of Revisions to the Marketing Plan

As a result of comments received during the comment period and public forums, the proposed Plan, published August 22, 1991, has been revised. The revisions are summarized as follows.

A change was made to the section entitled "Amounts of Power and Classes of Service" from the proposed Plan in that only 9.0 MW of Diversity Power will be marketed at this time. These 9.0 MW will be allocated to customers presently receiving that class of service under contracts expiring in 1994. The 21 MW of Diversity Power that is presently not under contract will be reserved so that it may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that Westlands Withdrawable Power is withdrawn. While Western prefers not to market these 21 MW of Diversity Power due to the present resource mix, Western will consider marketing this power if the withdrawal of Westlands Withdrawable Power causes undue hardship for Westlands Withdrawable Power customers. The 21 MW of Diversity Power will not be available for marketing to Westlands Withdrawable customers until after June 30, 1994. If this power is marketed, the terms and conditions set forth in this Plan shall govern the sale of the Diversity Power.

The requirements of a Diversity Power customer, as identified in section I.C of the proposed Plan, were expanded to include those who can reduce their Western schedule as well as shed load at the time of Western's simultaneous peak demands to maintain Western's customer load level.

In this Plan, power amounts were not rounded to the nearest tenth, as they were in the proposed plan.

The section in the proposed Plan entitled "Eligibility Criteria" was unchanged in the Plan other than some minor wording changes designed to improve clarity.

The section in the proposed Plan entitled "General Allocation Criteria and Contract Principles" was split into two separate sections entitled "General Allocation Criteria" and "General Contract Principles" in the Plan. This was done to better associate each criterion with a specific section. Some provisions were reworded or expanded to clarify the intent. Western decided to offer a new contract at least 6 months prior to the expiration of an existing contract, unless otherwise agreed in writing by the parties. Criterion III.J of the proposed Plan stated that an applicant's minimum load at each delivery point shall be no less than an annual peak of 500 kilowatts (kW). This criterion has been deleted from the Plan because there is no basis for inclusion of minimum loads at each delivery point. Criterion III.K of the proposed Plan was also eliminated from the Plan because it duplicated a provision contained in the "Eligibility Criteria" section.

Western discovered a discrepancy between the language of the proposed plan published in the **Federal Register** notice and the language of the prototype contract that was referenced in the notice and which was sent to the power applicants. The proposed plan states that the contracts will be effective in 1994, and the prototype contracts state that they are effective on the date of execution. Because the allocations to existing customers do not change under this Plan, and in order to simplify the administration of the contracts, Western hereby clarifies the effective date of the existing customer contracts as the date of the execution of the contracts by both the customer and Western. Electric service contracts for the sale of the 29.122 MW will be effective on the later of July 1, 1994, or when signed by Western and the customer.

The section in the proposed Plan that referred to contract terms and conditions was revised for the purpose of clarification. Western also determined that it was appropriate to add an explanation regarding Diversity Power.

Responses to Customer Comments Regarding Power Marketing Issues

A. Amounts of Power and Classes of Service

1. Western proposed to allocate a total of 379.195 MW of Long-Term Firm Power. Customers presently receiving Long-Term Firm Power under contracts expiring in 1994 would be allocated 346.73 MW of Long-Term Firm Power. Customers presently receiving 24.343 MW of Renewable Resource and Cogeneration Power under contracts which expire in 1994 would have those contract rates of delivery converted to Long-Term Firm Power allocations under the proposed Plan. New customers would be allocated a total of 8.122 MW of Long-Term Firm Power, which is derived from 2.465 MW of

Long-Term Firm Power presently under contracts expiring in 1994 but unused by existing customers and 5.657 MW of Renewable Resource and Cogeneration Power presently under contracts expiring in 1994 but unused by original allottees.

Comments: The cities of Alameda, Healdsburg, Lompoc, Lodi, Santa Clara, and Ukiah (Cities) recommended that Western not grant full contract renewals of CVP power to State agencies since the State has power resources of its own which could meet the needs of these entities.

Response: Western decided to allocate Long-Term Firm Power to all existing customers, including State agencies, in the same amounts that they are presently-receiving under contracts expiring in 1994. The economic analyses done for the EA showed that the fewest net socioeconomic impacts would be expected to occur if the draft plan, which included the sale of power to the existing power customers, was implemented.

Comment: The Cities also recommended that Western fully renew all contract rates of delivery (CRD) as they may be in effect for the Cities, including any short-term allocations (including 1 MW temporary Renewable Resource and Cogeneration allocation).

Response: Although the city of Palo Alto was originally allocated 1 MW of Renewable Resource and Cogeneration Power, it was unable to use it. That 1 MW was then marketed by Western to the cities of Healdsburg, Lodi, Lompoc, and Ukiah as part of a settlement which relieved Western of the contractual obligation of purchasing energy associated with geothermal renewable resource allocations. The contracts to the four cities expire in 1994 and the 1 MW will become available to new customers.

Comment: The city of Roseville suggested that Western could prevent Long-Term Firm Power withdrawals by making some firm allocations that would be withdrawable before Long-Term Firm Power. They recommended allocating Type III Withdrawable, the 8.122 MW now unused, and the Renewable Resource and Cogeneration Power as "Interim Firm Power."

Response: Western has decided not to create new classes of power because it would require that new withdrawal procedures be established through a potentially lengthy public involvement and environmental compliance process.

Comment: Lassen Municipal Utility District (LMUD) believes Western should not allocate 346.73 MW of Long-Term Firm Power to customers presently receiving that class of power. They recommended that Western allocate a portion of the 346.73 MW of Long-Term Firm Power to new customers. They also suggested that customers presently receiving the 24.343 MW of Renewable Resource and Cogeneration Power should not have that power converted to Long-Term Firm Power. They believe Western should allocate a portion of this power to new customers.

Response: Western decided to allocate Long-Term Firm Power to all existing customers in the same amounts that they are presently receiving under contracts expiring in 1994. The economic analyses done for the EA showed that the fewest net socioeconomic impacts would be expected to occur if the draft plan, which included the sale of power to existing power customers, was implemented.

Comment: The National Wildlife Federation commented that Western should not market any power under this Plan.

Response: Western decided to allocate Long-Term Firm Power to all existing customers in the same amounts that they are presently receiving under contracts expiring in 1994. The economic analyses done for the EA showed that the fewest net socioeconomic impacts would be expected to occur if the draft plan, which included the sale of power to existing power customers, was implemented. Western intends to make a broad environmental analysis of power marketing alternatives in the EIS soon to be initiated for Western's 2004 power marketing program. At this time, however, the CVP electrical system is integrated with PG&E's electrical system by Contract 2948A, which expires in 2004. That contract states that CVP generators shall be operated up to their full capabilities within the constraints set by the Bureau of Reclamation. Even if Western marketed no power under this Plan, the operation of the CVP system would not change. PG&E is obligated to support Western's CVP customers' load levels up to the maximum simultaneous peak of 1,152 MW. Therefore, there is no environmental or economic reason that Western should not market power as is described in the Plan.

Comment: The cities of Palo Alto and Roseville and Reclamation District #2035 commented that Western should allocate the Long-Term Firm Power to its existing power customers only.

Response: The proposed Plan is consistent with the intent of Reclamation law that Federal electric power and energy available is marketed in such a manner as to encourage its most widespread use. Western has decided that allocation to both new and existing customers meet that criterion.

Comment: The Department of the Navy recommended that customers with Type III Withdrawable Power be first offered any available Long-Term Firm Power which may be available from unused Long-Term Firm Power presently under contract; then the Type III Withdrawable Power which becomes available should be offered to new customers.

Response: By its very nature, Type III Withdrawable Power is firm power which is withdrawable to protect the 1,152–MW load level. Marketing this power to various CVP customers was established in past marketing plans, and Western, in exercising its discretion in allocating this power under Reclamation law, has decided not to change its proposal.

Comment: The Northern California Power Agency (NCPA) and the Truckee-Donner Public Utility District (Truckee-Donner PUD) suggested that the previous allocation of 1.965 MW of Long-Term Firm Power made to Truckee-Donner PUD should be renewed, and that the requirement that an entity must be located within the PG&E service area should be waived for Truckee-Donner PUD. They commented that allocating this entitlement to another entity would preclude Truckee-Donner PUD from acquiring the benefits of negotiations and studies for which they have made substantial commitments of time, effort, and money.

Response: Since their allocation was made in 1982, Truckee-Donner PUD has been unable to enter into contractual arrangements which would allow them to utilize CVP power. Based on the contract principles established in this Plan, Western has determined that this power shall be available for allocation in the current Plan.

Comment: The city of Redding commented that the conversion of Renewable Resource and Cogeneration Power to Long-Term Firm Power should not compromise Western's ability to meet existing or new commitments, nor should it compromise Western's ability or willingness to allocate firm power to the Whiskeytown Power Project. The city of Ukiah also commented that the conversion of Renewable Resource and Cogeneration Power to Long-Term Firm Power should not impact the ability for existing customers to receive firm power allocations.

Response: The conversion of Renewable Resource and Cogeneration Power to Long-Term Firm Power does not change Western's responsibilities to its customers nor does it change

Western's ability to meet its contractual commitments.

2. Western proposed to allocate 40.7 MW of Type III Withdrawable Power to customers presently receiving that class of service under contracts expiring in 1994.

Comment: The Department of the Air Force and the University of California, Davis, suggested that the Type III Withdrawable Power be converted to Long-Term Firm Power. The city of Roseville requested that Western accept applications from any existing customer who wants Type III Withdrawable Power.

Response: Type III Withdrawable Power is firm power which is withdrawable to protect the 1,152–MW load level. The marketing of this type of firm power to various CVP customers was established in previous marketing plans. Conversion of Type III Withdrawable Power to Long-Term Firm Power or increasing the amount of this type of power would diminish Western's ability to protect the 1,152–MW load level. Therefore, Western, in exercising its discretion in allocating this power under Reclamation law, sees no reason to change its proposal.

3. Western proposed to allocate 9 MW of Diversity Power to customers presently receiving that class of service under contracts expiring in 1994. Under the proposed plan, the remaining 21 MW of Diversity Power which is presently not under contract could have been allocated as Diversity Power to existing and new customers. A Diversity Power customer, at the request of Western, must shed a specified amount of load at the time of Western's simultaneous peak demands.

Comment: The Cities and NCPA commented that Western should consider marketing more than 30 MW of Diversity Power.

Response: Diversity Power allows Western to achieve its load shaping capabilities required to maintain the contractual 1,152-MW maximum simultaneous demand. Therefore, Western will allocate Diversity Power based on the amount of load shedding capability needed for Western's load and resource mix.

Comment: Ames Research Center (Ames) suggested that Western consider allocating 21 MW of Diversity Power to Ames at the system average composite rate.

Response: Western published proposed rates for CVP power and transmission in the **Federal Register** on July 17, 1992, to be effective May 1, 1993, through April 30, 1998. These proposals are being addressed through the public process for the determination of the rates. The 21 MW of Diversity Power that are presently not under contract will be reserved so that they may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that power is withdrawn.

Comment: The Bay Area Rapid Transit District (BART), Modesto Irrigation District (Modesto), Turlock Irrigation District (Turlock), and the city of Redding recommended that the requirements of a Diversity Power customer be expanded to include those who can reduce their Western schedule as well as shed load at the time of Western's simultaneous peak demands to maintain Western's customer load level.

Response: As indicated in the Summary of Revisions section of this notice, the requirements of a Diversity Power customer were expanded to include those who can reduce their Western schedule.

4. Western proposed to allocate 80 MW of Curtailable Power to the city of Santa Clara, which currently has a contract for this power.

Comment: Turlock commented that the 80 MW of Curtailable Power should not all be allocated to the city of Santa Clara.

Response: Santa Clara's contract provisions for Curtailable Power evolved after the settlement of the *Santa Clara* lawsuit in 1980. Western will allocate 80 MW of Curtailable Power to the city of Santa Clara in exchange for the city's participation in Western's load management program.

B. Eligibility Criteria

1. Western proposed to apply general eligibility criteria to all applicants seeking an allocation of power under the Plan. Among those criteria, Western proposed that, to be eligible to receive an allocation, the preference entity must exist, operate, and be ready, willing, and able to receive and use, or receive and distribute, Federal power as of the publication date of the final 1994 Power Marketing Plan in the **Federal Register** or January 1, 1992, whichever date is earlier. The entity also must be located within the PG&E service area.

Comment: Contra Costa Water District recommended that new customers be given 2 years to make use of their allocation. They further commented that this eligibility criterion should be applied to the contract service date and not sooner.

Response: The requirement that customers must be able to use CVP power by January 1, 1992, promotes the most widespread use of the Federal resource consistent with Reclamation law. If customers were allowed 2 years to make use of their allocation, that power would, in effect, be unmarketed during that period of time, while another entity may have an immediate use for the power. Also, there is no guarantee that the customers would be able to make use of the power if they were given an allocation.

C. General Allocation Criteria and Contract Principles

1. Western proposed to apply general allocation criteria and contract principles to all applicants seeking an allocation of power under the Plan.

Comment: There were several comments which suggested that it would be appropriate for Western to remove all contract contingencies regarding Contract 2948A.

Response: Contract 2948A currently provides various firming and wheeling services to Western's power customers. If the contract is terminated, Western would make every effort to obtain these services elsewhere; however, Western cannot guarantee that these services will be available.

Comment: The city of Alameda recommended the inclusion of special allocation criteria to allow for existing customers to obtain additional power available due to Federal military base consolidations.

Response: It is not clear at this time whether the military's total demand for power will decrease due to the consolidations; therefore, Western's military customers were not treated as exceptions to the Plan.

Comment: The city of Ukiah suggested that Western include allocation criteria in the Plan recognizing investments in geothermal and renewable resource projects when allocating Diversity Power and other unused power.

Response: Investments in Renewable Resource and Cogeneration Power were considered when Western allocated power in 1981 for Renewable Resource and Cogeneration Power projects. The fact that power has been converted to Long-Term Firm Power is a substantial benefit to customers with that power.

2. Western proposed that, for existing Western customers, electric service contracts for power available under the Plan must be executed no later than the expiration date of the existing electric service contract.

Comment: The Department of the Navy suggested that Western modify the Plan to provide that Western shall present the new contract at least 6 months prior to the expiration of the existing contract.

Response: As indicated in the Summary of Revisions section of this notice, Western committed to present a new contract at least 6 months prior to the expiration of an existing contract, unless otherwise agreed in writing by the parties.

Comment: The National Wildlife Federation commented that Western should include forthcoming Energy Planning and Management Program conditions to new contracts under the Plan.

Response: It is anticipated that upon publication of the final Energy Planning and Management Program, integrated resource planning requirements will be applicable to all CVP customers. Western's prototype contract states that the Contractor shall have an on-going energy management program in accordance with requirements published by Western in the **Federal Register** following an appropriate public process or any subsequent amendments thereto.

3. Western proposed that it would enter into scheduling agreements with Western's customers when advantageous to its customer base as a whole and when consistent with applicable law or when required in accordance with the normal utility practice of interconnected utilities. Western further proposed that it would determine whether to enter into a scheduling agreement based upon satisfactory resolution of issues related to interconnected operations, including use of transmission capacity, voltage support, power factor, reactive powerflow, system operations, and modifications of facilities.

Comment: PG&E commented that scheduling contracts should be consistent with Contract 2948A power accounting.

Response: Western will schedule power to the extent allowed by law and Western's existing contract with PG&E.

4. Western proposed that an applicant's minimum load at each delivery point shall be no less than an annual peak of 500 kW.

Comment: Reclamation District #2035 recommended that Western include arrangements permitting more than one point of delivery and allowing for changes in points of delivery and amounts of power in response to growth or location changes. PG&E commented that the number of small power delivery points should be reduced, and that more load at fewer delivery points should be served to conform with Contract 2948A. They also suggested that Western should provide for fixed contract rates of delivery rather than allowing the contract rates of delivery to be shifted. The city of Avenal and BART stated that requiring a customer to maintain at least a 500 kW demand at each delivery point is contrary to customers' conservation efforts, and BART suggested eliminating this criterion from the Plan.

Response: As indicated in the Summary of Revisions section of this notice, criterion III.J of the proposed Plan has been deleted from this Plan.

5. Western proposed to give greater consideration in allocating power to irrigation or water districts which transmit CVP power or receive or purchase CVP water.

Comment: Many commenters suggested that no special consideration should be given merely because the customer purchases CVP water; i.e., irrigation and water districts.

Response: As indicated in the Summary of Revisions section of this notice, a clarification of Western's intent needed to be provided. This criterion has been reworded in this Plan as criterion C.4.

6. Western proposed to give greater consideration in allocating power to those applicants who have instituted and continue to actively pursue demand-side management activities.

Comment: The city of Palo Alto suggested that Western should include the words "energy-saving and peak-reducing" demand-side management activities since not all demand-side activities save energy or reduce peak.

Response: The call for applications for power published in the **Federal Register** did not specify that applicants should address "energy-saving and peak-reducing" activities, but requested that they address their demand-side management activities. In order to make the change requested by Palo Alto, Western would be required to obtain a clarification from all those who applied for power in order to be able to apply the suggested change to the applications. While Palo Alto's suggestion would have made Western's criterion more specific, Western has chosen not to make the change.

7. Western proposed to give greater consideration in allocating power to those applicants who assist Western in its mission of meeting its customer loads at the lowest possible cost consistent with sound business principles by providing such factors as, among others, transmission access to low-cost sources of power and aiding in providing efficient and reliable electrical service.

Comment: The Cities and the city of Redding suggested that joint generation projects should be included in this criteria as a factor.

Response: The call for applications for power published in the **Federal Register** did not specify that applicants should address joint generation projects in their applications. In order to make the change requested by Redding, Western would be required to obtain a clarification from all those who applied for power in order to be able to apply the suggested change to the applications. While Redding's suggestion would have made Western's criteria more specific, Western has chosen not to make the change.

D. Contract Terms and Conditions

Western proposed to apply contract terms and conditions to Long-Term Firm Power, Diversity Power, Curtailable Power, and Type III Withdrawable Power.

Comment: The Cities commented that Western should remove the Westlands Withdrawal provisions from all contracts to reduce the risk to any one entity. They suggested that Western manage the risk through system diversity.

Response: The Westlands Withdrawable Power is not additional power available for sale, but is allocated only because the Westlands Water District is not using that portion of its allocation. Withdrawal of that power was contemplated when the power was marketed. Procedures for withdrawal of CVP power allocations from customers under varying circumstances, including Westlands Withdrawable Power, were published at 51 FR 7702, March 5, 1986. Western has reserved the 21 MW of Diversity Power which it may allocate on a pro rata basis to Westlands Withdrawable customers upon the withdrawal of that power.

Comment: The Cities, the city of Avenal, and Reclamation District #2035 commented that Western should make its best effort to obtain a transmission agreement to wheel power to customers within the PG&E service area.

Response: As indicated in the Plan, Western will assist the allottees in obtaining third-party transmission arrangements for delivery of power allocated to customers in the PG&E service area. However, each allottee is ultimately responsible for obtaining its own delivery arrangements.

Comment: The Contra Costa Water District suggested that Western should acknowledge that its transmission system could be used, under the appropriate conditions, for delivery of power.

Response: Although Western does have capability to wheel power over its transmission system, this is not a provision of the Plan.

Comment: Many comments were received recommending that the contract term for the power allocations be extended beyond 10 years.

Response: The Plan has established that the contracts will become effective on the date of execution and, subject to prior termination as otherwise provided for in the contract, will remain in effect until midnight of December 31, 2004. This termination coincides with all of Western's remaining power sales contracts along with Western's integration contract with PG&E.

Comment: Lassen Municipal Utility District recommended that Western allocate 30 MW of Diversity Power on short-term contracts of less than 5 years.

Response: Western will allocate Diversity Power with a 1-year termination notice.

Responses to Customer Comments Regarding Other Issues

Members of Congress and the National Wildlife Federation submitted comments relevant to Western's environmental analyses.

Response: The environmental comments were addressed fully in the environmental documentation prepared for this Plan. See the Background section above for summary information.

Final Power Marketing Plan

A. Amounts of Power and Classes of Service

1. Western will allocate a total of 379.195 MW of Long-Term Firm Power. Long-Term Firm Power means firm power offered by Western and subject to the terms and conditions specified in the Western electric service contract. Customers presently receiving Long-Term Firm Power under contracts expiring in 1994 will be offered a total of 346.73 MW of Long-Term Firm Power. Customers presently receiving the 24.343 MW of Renewable Resource and Cogeneration Power under contracts which expire in 1994 will be offered Long-Term Firm Power with contract rates of delivery equal to their current Renewable Resource and Cogeneration Power contract rates of delivery. Renewable Resource and Cogeneration Power is firm power marketed in the past by Western for the development or operation of a renewable resource or cogeneration project. New customers will be allocated a total of 8.122 MW of Long-Term Firm Power, which is the sum of 2.465 MW of Long-Term Firm Power presently under contracts expiring in 1994 but unused by existing customers and 5.657 MW of Renewable Resource and Cogeneration Power presently under contracts expiring in 1994 but unused by original allottees.

2. Western will allocate 40.751 MW of Type III Withdrawable Power to customers presently receiving that class of service under contracts expiring in 1994. Type III Withdrawable Power means firm power which is withdrawable to protect the 1,152–MW load level before withdrawal of other types of noninterruptible power. The Type III Withdrawable Power is subject to additional terms and conditions specified in the Western electric service contract.

3. Western will allocate 9.0 MW of Diversity Power to customers presently receiving that class of service under contracts expiring in 1994. The 21 MW of Diversity Power that are presently not under contract will be reserved so that they may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that power is withdrawn. While Western prefers not to market these 21 MW of Diversity Power due to the present resource mix, Western will consider marketing this power if the withdrawal of Westlands Withdrawable Power causes undue hardship for Westlands Withdrawable Power customers. The 21 MW of Diversity Power will not be available for marketing to Westland Withdrawable customers until after June 30, 1994. If this power is marketed, the terms and conditions set forth in this Plan shall govern the sale of the Diversity Power. Diversity Power means firm power made available because of the diversity of Western's customers, peak demands at the time of Western's peak demand. A Diversity Power customer, at the request of Western, must shed a specified amount of load or reduce its Western schedule at the time of Western's simultaneous peak demands to maintain the customer load level. Since the purpose of a Diversity Power allocation is to assist Western in maintaining a limited load level, these allocations will be subject to a 1-year termination clause, at the sole discretion of Western, based upon the need for this class of power. This Diversity Power is subject to additional terms and conditions specified in Western's electric service contract.

4. Western will allocate 80.0 MW of Curtailable Power to the city of Santa Clara, which currently has a contract for this power. Curtailable Power means power offered by Western to qualified preference entities which may be curtailed on a real-time scheduling basis, by Western and at Western's sole discretion, to protect the 1,152 MW-load level. A Curtailable Power allocation also subjects a portion of the customers' firm power to curtailment. This allocation will be subject to a 1-year termination clause, at the sole discretion of Western.

5. Western reserves, as part of the long-term allocation, the operational capabilities of its power resources in excess of its contractual commitments under sections 1 through 4 above to market other classes of service, such as peaking capacity, emergency and backup power, and spinning reserves. Western will study any new long-term resources that may become available to the Sacramento Area Office, and will determine the best method of marketing that power.

B. Eligibility Criteria

Western applies the following general eligibility criteria to all applicants seeking an allocation of power under the Plan.

1. Only preference entities as defined by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), as amended and supplemented, will be eligible to receive an allocation.

2. To be eligible to receive an allocation, the preference entity must exist, operate, and be ready, willing, and able to receive and use or receive and distribute Federal power as of January 1, 1992.

3. A preference entity not presently receiving Long-Term Firm Power under a contract expiring in 1994 must be located within the PG&E service area. PG&E means the investor-owned utility having a service area in northern and central California and load control responsibility for the northern and central California area and with whom Western sells, exchanges, and transmits power under Contract No. 14–06–200–2948A (Contract 2948A). Contract 2948A means the contract between PG&E and Western, which provides for certain sales, exchanges, and transmission of electric power.

4. Applicants shall have submitted an application in response to 57 FR 17904, April 28, 1992. The submittal instructions, format, and applicant information were also included in that notice.

C. General Allocation Criteria

Western applies the following general allocation criteria to all applicants seeking an allocation of power under the Plan.

1. Allocations of power will be made in amounts as determined solely by Western in the exercise of its discretion under Reclamation law.

2. The decision to reallocate any CVP power that becomes available for marketing because an allottee has failed to accept a contract within the period allowed or because a contract has terminated will be at the sole discretion of Western's Administrator.

3. The minimum allocation shall be 500 kW. Western may waive this requirement for preference entities which historically have had loads under 500 kW and are directly connected to Western's transmission system.

4. Among new irrigation or water district applicants, greater consideration is given to irrigation or water districts which transmit CVP power or receive or purchase CVP water.

5. Among all applicants, greater consideration will be given in allocating power to those applicants who can demonstrate a diversity contribution at the time of Western's simultaneous peak; i.e., the applicant's peak demands are not coincident with Western's peak obligations.

6. Among all applicants, greater consideration will be given to those applicants who have instituted and continue to actively pursue demand-side management activities and the use of renewable resources.

7. Greater consideration will be given to those applicants who assist Western in its mission of delivering Federal power at the lowest possible cost consistent with sound business principles by providing such factors as, among others, transmission access to low-cost sources of power and aiding in providing efficient and reliable electrical service.

D. General Contract Principles

Western will apply the following general contract principles to all applicants seeking an allocation of power under the Plan.

1. An allottee will have the right to receive and the obligation to purchase such power only upon the execution of an electric service contract acceptable to Western, by the customer and Western, and upon satisfaction of all conditions in that contract.

2. Energy provided with power allocated will normally be based upon either (a) the customer's monthly system load factor or (b) the customer's monthly average energy use over the most recent 5-year period pursuant to a scheduling agreement.

3. For existing Western customers who receive an allocation of the 500.824 MW, electric service contracts for Long-Term Firm Power, Type III Withdrawable Power, Diversity Power, and Curtailable Power entered into under the Plan must be executed no later than the expiration date of the existing electric service contract. Western will present the new contracts at least 6 months prior to the expiration of the existing contract, unless otherwise agreed in writing by the parties. New contracts shall be effective when signed by the customer and Western.

4. Any electric service contract offered to a new customer shall be executed by the customer within 6 months of a contract offer by Western, unless otherwise agreed in writing by Western. Contracts shall be effective on the later of July 1, 1994, or when signed by the customer and Western.

5. Western will enter into scheduling agreements with its customers when advantageous to Western's customer base as a whole and when consistent with applicable law or when required in accordance with the normal utility practice of interconnected utilities. These scheduling agreements provide for the real-time scheduling of CVP power. Western will determine whether to enter into a scheduling agreement based upon satisfactory resolution of issues related to interconnected operations, including use of transmission capacity, voltage support, power factor, reactive powerflow, system operations, and modifications of facilities.

6. Western normally will contract with each individual customer. However, Western may enter into consolidated or combined delivery contracts with a group of customers or with a representative of a group of customers when advantageous to Western's customer base as a whole and when consistent with applicable law.

7. In addition to the general contract principles listed above, the following contract terms and conditions shall apply to Long-Term Firm Power, Type III Withdrawable Power, Diversity Power, and Curtailable Power.

a. Minimum Load Requirement: Western reserves the right to terminate a contract if a customer that receives Federal power over PG&E's transmission system does not have monthly demands of 500 kW or more for 3 consecutive months in the 12-month period immediately preceding the date that Western requests PG&E to begin transmission service.

b. Withdrawal Provisions: Power marketed under the Plan will be subject to the provisions for withdrawal of CVP power under varying circumstances prescribed by law or by contract. Such circumstances include the Westlands Withdrawable Power, withdrawals for project use, load-level limitations, first preference, and the condition that allows a customer's CRD to be reduced due to the termination of Contract 2948A. The withdrawal provisions will comply with the procedures announced in 51 FR 7702, March 5, 1986.

c. Transmission Service: Western will assist the allottees in obtaining third-party transmission arrangements for delivery of power allocated under the Plan to customers in the PG&E service area; nonetheless, each allottee is ultimately responsible for obtaining its own delivery arrangements.

d. Term: Electric service contracts for the 500.824 MW of power marketed under this plan to existing customers will be effective when signed by both the customer and Western. Contracts for Diversity and Curtailable Power are subject to a 1-year termination clause, at the sole discretion of Western. Electric service contracts for the 29.122 MW of power will be effective on the later of July 1, 1994, or when signed by both the customer and Western. Contracts entered into under the Plan shall provide for electric service through December 31, 2004. The 2004 date will correspond to the expiration dates for most of the Sacramento Area Office's other electric service contracts and the expiration date of Contract 2948A between Western and PG&E.

e. Type III Withdrawable Power and Curtailable Power: In the event that the quantity of Type III Withdrawable Power or Curtailable Power is reduced, such power may thereafter be reinstated in accordance with the terms of the contract, and the contract shall continue to exist through its term unless terminated in accordance with its provisions. Energy provided with Curtailable Power will be provided in quantities, at rates, and under other terms and conditions mutually agreed upon between Western and the customer.

f. Diversity Power: The amount, scheduling, and accounting for "load shedding" will be negotiated on a case-by-case basis. It is Western's intent to negotiate the Diversity Power to be contingent upon shedding 1.5 or greater MW of load for each MW of Diversity Power.

g. Standard Provisions: The contracts entered into as a result of the Plan will incorporate Western's standard provisions for power sales contracts, resale of electric energy, energy management, and the General Power Contract Provisions.

Final Allocations to Existing Customers

The following final power allocations to existing CVP customers are made in accordance with the Plan. All of the

allocations are subject to the execution of a mutually satisfactory contract in accordance with the Plan. If any of the power allocated in these categories fails to be subscribed, subsequent allocations may be made by Western without further public process.

Preference customer	Allocation (MW)
A. Allocation of 346.73 MW of Long-Term Firm Power	
Alameda, City of	15.645
Banta Carbona Irrigation District	3.700
Beale Air Force Base	20.507
Broadview Water District	.500
Byron-Bethany Irrigation District	2.200
Camp Parks Army Depot	.500
Castle Air Force Base	4.299
Concord Naval Base	2.200
California State University at Sacramento, Nimbus	.040
Delano-Earlimart Irrigation District	.987
Deuel Vocational Institute	1.700
Dixon Naval Base	1.075
East Bay Municipal Utility District	1.965
East Contra Costa Irrigation District	2.500
Folsom Prison	2.300
Glenn Colusa Irrigation District	3.000
Healdsburg, City of	2,941
ICA, Dixon Relay Station (USIA)	.500
James Irrigation District	.987
Kern Tulare Water District	.987
Lemoore Naval Base	16.000
Lindsay Strathmore Irrigation District	.987
Lawrence Livermore National Laboratory (DOE)	22.300
Lodi, City of	11.736
Lompoc, City of	4.897
Lower Tule River Irrigation District	1.965
Mare Island Naval Base	19.075
McClellan Air Force Base	10.094
Modesto Irrigation District	8.805
Moffett Naval Base	4.805
Nasa-Ames Research Center	80.000
Northern California Youth Center	1.700
Parks and Recreation	.100
Patterson Water District	2.000
Provident Irrigation District	.750
Rag Gulch Water District	.500
Reclamation District 2035	1.600
San Luis Water District	6.650
Santa Clara Valley Water District	.987
Sharpe Army Base	4.000
Site 300 (DOE)	.500
Skaggs Island Naval Base	.900
Stanford Linear Accelerator Center (DOE)	25.000
Stockton Naval Base	3.500
Terra Bella Irrigation District	.987
Tracy Army Base	3.800
Travis Air Force Base	12.000
Travis Wherry Air Force Base	.100
Treasure Island Naval Base	3.145
Turlock Irrigation District	2.941
University of California at Davis	11.500
Ukiah, City of	5.873
Vacaville Medical Facility	1.800
West Side Irrigation District	2.000
West Stanislaus Irrigation District	5.200
Total	346.730
B. Allocation of 24.343 MW of Renewable Resource and Cogeneration Power Converted to Long-Term Firm Power	
Alameda, City of	5.500
Glenn Colusa Irrigation District	.343
Healdsburg, City of	.300
Lodi, City of	1.500
Lompoc, City of	.300
Modesto Irrigation District	2.000
Sacramento Municipal Utility District	1.000
Santa Clara, City of	8.000
Sonoma County Water Agency	1.500
Turlock Irrigation District	1.000
Ukiah, City of	2.900
Total	24.343
C. Allocation of 40.751 MW of Type III Withdrawable Power	
Beale Air Force Base	1.068
Castle Air Force Base	.852
Concord Naval Base	.098
Lawrence Livermore National Laboratory (DOE)	5.911
Mare Island Naval Base	2.148
McClellan Air Force Base	1.906
Moffett Naval Base	2.270
Santa Clara, City of	3.532
Stanford Linear Accelerator Center (DOE)	14.903
Travis Air Force Base	1.000
Travis Wherry Air Force Base	1.300
Treasure Island Naval Base	2.581
University of California at Davis	3.182
Total	40.751
D. Allocation of 9.0 MW of Diversity Power	
Lawrence Berkeley Laboratory (DOE)	3.000
Stanford Linear Accelerator Center (DOE)	6.000
Total	9.000
E. Allocations of 80.0 MW of Curtailable Power	
Santa Clara, City of	80.000
Total	80.000

Proposed Power Allocations

All of the proposed power allocations are subject to change. Written comments on the proposed allocations must be received at the address set forth above by 5 p.m., local time, November 4, 1992. Western will respond to the comments received on the proposed allocations and publish its final allocations after the end of the public comment period. New customers' contracts may be entered into by Western after publication of that notice.

Preference customer	Proposed allocation (MW)
Allocation of 8.122 MW of Long—Term Firm Power	
Avenal, City of	.622
Bay Area Rapid Transit District	4.000
Cawelo Water District	.500
Lassen Municipal Utility District	3.000
Total	8.122

A two-step process must be undertaken before Western may propose an allocation of power. First, it is determined whether the applicants meet the eligibility criteria listed in the Plan. Next, Western reviews the applications to determine whether general allocation criteria have been met by the applicant. Western uses its discretion in proposing allocations to those applicants that meet these criteria.

Western received 33 applications from entities that do not now have allocations of power from Western. Western determined that all but three applicants were eligible under the Plan to receive an allocation of power. In total, the applicants requested allocations of 193.75 MW of power. Even if Western decided to allocate a share of the available 8.122 MW among as many applicants as possible, Western would only be able to choose 16 of the 33 applicants due to the threshold allocation amount of 500 kW. In allocating the 8.122 MW among the 33 new applicants for CVP power, Western used the allocation criteria and exercised its discretion under Reclamation law in determining the allotees for that power. The LMUD load peaks in the winter season which contributes to Western's system diversity, and LMUD is pursuing transmission interconnections with other utilities which may facilitate Western's access to more low-cost sources of power. BART has system diversity relative to Western's simultaneous daily peaks, Cawelo provides transmission and pumping service for numerous irrigation districts which have allocations of CVP water and power, and Avenal is also a recipient of CVP water.

Allocation of 21 MW of Diversity Power

The 21 MW of Diversity Power that are presently not under contract will be reserved so that they may be offered on a pro rata basis to customers with an allocation of Westlands Withdrawable Power in the event that power is withdrawn. While Western prefers not to market these 21 MW of Diversity Power due to the present resource mix, Western will consider marketing this power if the withdrawal of Westlands Withdrawable Power causes undue hardship for Westlands Withdrawable Power customers. The 21 MW Diversity Power will not be available for marketing to Westlands Withdrawable customers until after June 30, 1994. If this power is marketed, the terms and conditions set forth in this Plan shall govern the sale of the Diversity Power.

The following list of Westlands Withdrawable Power customers is to be used as a basis to pro rate the 21 MW of Diversity Power.

Customers	Present Westlands withdrawable power (MW)
Utility Districts:	
East Bay MUD	1.051
Irrigation Districts:	
Delano-Earlimart	.349
James	.349
Kern Tulare	.349
Lower Tule River	1.051
Lindsay Strathmore	.349
Modesto	5.960
Santa Clara Valley	.349
Terra Bella	.349
Turlock	1.751
Municipalities:	
City of Alameda	10.869
City of Healdsburg	1.751
City of Lodi	8.063
City of Lompoc	3.155
City of Ukiah	3.856
Total	39.601

Regulatory Procedure Requirements

A. Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.*, each agency, when required to publish a proposed rule, is further required to prepare and make available for public comment an initial regulatory flexibility analysis to describe the impact of the rule on small entities. Western has determined that (1) this rule making relates to services offered by Western and, therefore, is not a rule within the purview of the Act, and (2) the impacts of an allocation from Western would not cause an adverse economic impact to such entities. The requirements of this Act can be waived if the head of the agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. By his execution of this **Federal Register** notice, Western's Administrator certifies that no significant economic impact on a substantial number of small entities will occur.

B. Environmental Compliance

Western revised its EA based on comments received prior to promulgating the Plan. The studies completed for the revised EA reaffirm the findings and conclusions of the original EA that the Plan has no significant environmental impact. Please see the Background section above for additional information.

C. Paperwork Reduction Act of 1980

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, requires that certain information collection requirements be approved by the Office of Management and Budget (OMB) before information is requested of the public. OMB has issued a final rule on the Paperwork Burdens on the Public, 48 FR 13666, March 31, 1983.

D. Determination Under Executive Order 12291

DOE has determination that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193, February 19, 1981. Western has an exemption from sections 3, 4, and 7 of Executive Order 12291; accordingly, no clearance of this procedure by OMB is required.

Issued at Golden, Colorado, September 22, 1992.

William H. Clagett,

Administrator.

[FR Doc. 92–24106 Filed 10–2–92; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4518–9]

Fuels and Fuel Additives; Waiver Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On August 24, 1992, the Lubrizol Corporation (Lubrizol) submitted an application for a waiver of the prohibitions against the introduction into commerce of certain fuels and fuel additives set forth in section 211(f) of the Clean Air Act (Act). Lubrizol seeks a limited waiver for an organo-copper diesel additive, commercially labeled by Lubrizol as EZ–ADD ™, to be blended in diesel fuel for formulations within the 30 parts per million (ppm) to 60 ppm copper range (0.09 to 0.18 gram per gallon (gpg) copper), or which are below that copper concentration level. This fuel would be for use solely in urban buses equipped with certain particulate traps which require the additive for proper operation. The Administrator of EPA has until February 22, 1993 to grant or deny this application. If not denied by that date, it will be deemed to be granted, under section 211(f)(4).

DATES: Comments on this application will be accepted until November 4, 1992. Additional information on the submission of comments to the docket may be found below in the "Address" section of this notice.

ADDRESSES: Copies of the information relative to this application are available for inspection in public docket, A–92–33, at the Air Docket (LE–131) of the EPA, room M–1500, 401 M Street, SW., Washington, DC 20460, (202) 382–7548, between the hours of 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. weekdays. Any comments from interested parties should be addressed to this docket with a copy forwarded to Mary T. Smith, Director, Field Operations and Support Division (6406J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Joseph R. Sopata, Chemist, Field Operations and Support Division (6406J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 233–9034.

SUPPLEMENTARY INFORMATION: Section 211(f)(1)(A) of the Act makes it unlawful, effective March 31, 1977, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in light-duty motor vehicles manufactured after model-year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification or any model-year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. EPA has defined "substantially similar" with respect to unleaded gasoline at 56 FR 5353 (February 11, 1991). Section 211(f)(1)(B) of the Act makes it unlawful, effective November 15, 1990, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use by any person in motor vehicles manufactured after model-year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model-year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Thus, section 211(f)(1)(B) expands the prohibitions of 211(f)(1)(A) to fuels and additives for use in any vehicle or engine for which emissions certification regulations have been established. Therefore, fuels for use in heavy-duty diesel engines are subject to the prohibitions. The prohibitions of 211(f)(1) apply to fuels and additives which are not "substantially similar" to those used in emissions certification. Section 211(f)(4) of the Act provides that upon application by any fuel or fuel additive manufacturer, the Administrator of EPA may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission

control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emissions standards to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny a waiver within 180 days of receipt of the application, the statute provides that the waiver shall be treated as granted.

The submission by Lubrizol is an application under section 211(f)(4) of the Act for a waiver for an organo-copper diesel fuel additive, commercially labeled by Lubrizol as EZ–ADD ™, to be blended in diesel fuel for formulations within the 30 parts per million (ppm) to 60 ppm copper range (0.09 to 0.18 gram per gallon (gpg) copper), or which are below that copper concentration level in the final fuel. This fuel would be for use solely in urban buses with particulate traps that have the filtration efficiency, stability and the regeneration capabilities comparable to the Corning EX47 and EX54 corderite filters (traps). EPA request comments on what the lower concentration limit of copper additive shall be, in order to ensure proper operation of these types of particulate traps on urban mass transit buses.

It is the intention of Lubrizol corporation to only market the copper additive/trap system in municipalities to insure that diesel fuel treated with the copper additive is obtained at only centrally fueled locations that have urban transit buses equipped with the specified particulate traps. The presence of copper additive in the diesel fuel when used with a particulate trap lowers the regeneration temperature of the particulate trap, thus improving the ability of the particulate trap to oxidize soot and significantly reduce particulate emissions.

Lubrizoil has not requested any restriction on the sulfur content of the diesel fuel. Most of the test data presented by Lubrizol were developed using low-sulfur diesel fuel. Such fuel for highway use will be required by law effective October 1, 1993 (55 FR 34120). However, if this waiver were granted prior to October 1, 1993, during the interim, low sulfur diesel fuel may not be available, or more difficult to obtain, than high-sulfur diesel fuel. The EPA requests comment on the suitability of high-sulfur diesel fuel for use with EZ–ADD ™. Also, EPA invites comments on any potential impact on public health or welfare as a result of commercial use of this copper diesel fuel additive.

The Act requires that a decision be made within 180 days, or the waiver is automatically granted. The request was received on August 24, 1992. The 180th day is Saturday, February 20, 1993. Therefore, the due date for and decision is the next working day, Monday, February 22, 1992.

EPA invites comments on whether the Administrator should grant or deny this waiver application.

Dated: September 29, 1992.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92–24087 Filed 10–02–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4519–2]

Clean Air Act; Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: Under the provisions of Section 208, paragraph (c) of the Clean Air Act, as amended, the EPA's Certification Division, located at the Ann Arbor, MI, National Vehicle & Fuel Emission Laboratory, has authorized that nine (9) contractors receive access to information that has been, or will be submitted to the EPA under Title II of the Clean Air Act (CAA) as amended. Some of the information may be claimed to be confidential business information (CBI) and some has already been classified by EPA's Office of General Counsel in previous "Class Determinations" as CBI. The contractors, identified below, can function in any or several of the following capacities: (1) Inspection of vehicles or engines, (2) perform maintenance on vehicles or engines (3) conduct testing on vehicles or engines, (4) review and compare data from vehicles or engines, (5) review technical support documentation describing vehicles or engines, (6) perform data analyses, (7) perform clerical support, (8) perform computer programming support, (9) conduct computer time sharing service, and (10) perform library services.

DATES: This Notice is effective October 12, 1992.

FOR FURTHER INFORMATION CONTACT: Clifford D. Tyree, Project Manager/ Freedom of Information Act Officer, Certification Division, Ann Arbor, MI, 48105, telephone (313) 668–4310.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under Title II of the CAA that EPA may provide the following contractors access to these materials on a need-to-know basis.

1. EG & G Automotive Research, 5404 Bandera Road, San Antonio, TX 78238.

2. VIAR & Company, 300 North Lee Street, Suite 500, Alexandria, Virginia 22314.

3. Computer Science Corporation, 2100 East Grand Ave., El Segundo, CA 90245.

4. Systex, Inc., Park Place, Suite 350, 10000 Virginia Manor, Beltsville, MD 20705.

5. Labat-Anderson, Inc., 2200 Clarendon Blvd., Arlington, VA 22201.

6. Sierra Research, 1521 I Street, Sacramento, CA 95814.

7. Southwest Research Institute, 6220 Culebra Road, P.O. Drawer 28510, San Antonio, TX 78228–0510.

8. Wayne State University, Computing and Information Technology, 5925 Woodward Avenue, Detroit, MI 48202.

9. Radian Corp., 7 Corporate Park, Suite 240, Irvine, CA 92714.

In accordance with 40 CFR 2.301 and section 2.311, EPA has determined that each contractor requires access to CBI submitted to EPA under Title II of the CAA to fulfill the obligations of their specific contract. The contractor's personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures.

Dated: September 30, 1992.

Jerry Kurtzweg,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 92–24096 Filed 10–2–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4517–8]

Meeting of the Ozone Transport Commission for the Northeast United States

AGENCY: Environmental Protection Agency.

ACTION: Notice of Meeting.

SUMMARY: The United States Environmental Protection Agency is announcing a meeting of the Ozone Transport Commission to be held on Tuesday, October 20, 1992.

The Commission will deal with appropriate matters within the transport region, as provided for under the Clean Air Act Amendments of 1990. This meeting is not subject to the provisions of the Federal Advisory Committee Act, Public Law 92–463, as amended.

DATES: The meeting will be held on October 20, 1992.

ADDRESSES: The meeting will be held at: Portland Regency Hotel, 20 Milk Street, Portland, Maine 04101 (207) 774–4200.

FOR FURTHER INFORMATION OR PRESS INQUIRIES CONTACT: Bruce Carhart, Executive Director, Ozone Transport Commission, 444 North Capital Street NW., Suite 604, Washington, DC 20001, (202) 508–3840.

SUPPLEMENTARY INFORMATION: The Clean Air Act Amendments of 1990 contain at Section 184 new provisions for the "Control of Interstate Ozone Air Pollution." Section 184(a) establishes an ozone transport region comprised of the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, parts of Virginia and the District of Columbia. The purpose of the Transport Commission is to deal with appropriate matters within the ozone transport region.

The purpose of this notice is to announce that this Commission will meet on October 20, 1992. The meeting will be held at the address noted earlier in this notice.

Section 176A(b)(2) of the Clean Air Act Amendments of 1990 specifies that the meetings of Transport Commissions are not subject to the provisions of the Federal Advisory Committee Act. This meeting will be open to the public as space permits. Seating will begin at 8:30 a.m.

TYPE OF MEETING: Open.

AGENDA: The meeting begins a 9 a.m. and is expected to last until 4 p.m. The Commission will receive reports from its committees, particularly on (1) interstate emission offsets and trading issues, (2) results of Regional Oxidant Model (ROM) simulations, (3) a variety of mobile source issues, and (4) 1992 State Implementation Plan revisions.

A complete agenda is available from the Ozone Transport Commission at the address given for the information contact person.

Kathleen C. Callahan,

Acting Regional Administrator EPA Region II.

[FR Doc. 92–24093 Filed 10–2–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4517–2]

Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty to Heraeus Incorporated, c/o Precision Products Division and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty assessment for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue these orders after the commencement of either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessments pursuant to 33 U.S.C. 1319(g)(4)(a).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the Procedures by which a Respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty days after publication of this notice.

On the date identified below, EPA commenced the following Class II proceeding for the assessment of penalties:

In the Matter of Heraeus Incorporated, c/o Precision Products Division, located at 301 North Roosevelt Avenue, Chandler, Arizona; EPA Docket No. CWA–IX–FY92–29; filed on September 25, 1992, with Mr. Steven Armsey, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1389; proposed penalty of $99,225 for failure to comply with the categorical pretreatment standards and requirements for new source metal finishers (40 CFR 433) and for failure to comply with the General Pretreatment Regulations for New Sources of Pollution (40 CFR 403).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review of the complaint or other documents filed in this proceeding, comment upon a proposed assessment, or otherwise participate in the proceeding should contact the Regional Hearing Clerk identified above. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by the respondent is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to thirty (30) days after the date of publication of this notice.

Dated: September 25, 1992.

Catherine Kuhlman,

Acting Director, Water Management Division.

[FR Doc. 92–24088 Filed 10–2–92; 8:45 am]

BILLING CODE 6560–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1910]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

September 29, 1992.

Petitions for reconsideration and clarification have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor Downtown Copy Center (202) 452–1422. Oppositions to these petitions must be filed October 20, 1992. See § 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation. (CC Docket No. 91–35) Number of Petitions Filed: 7.

Subject: Amendment of part 73 of the Commission's Rules to Modify Processing Procedures for Commercial FM Broadcast Applications. Number of Petitions Filed: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92–24114 Filed 10–2–92; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

[Notice 1992–18]

Filing Dates for the North Carolina Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for a special election.

SUMMARY: North Carolina has scheduled a Special General Election on November 3, 1992, for the 1st Congressional

District, to fill the seat of the late Congressman Walter B. Jones. Committees required to file a report in connection with the Special General Election, must file a Pre-General Report by October 22, 1992, and a Post-General Report by December 3, 1992.

Committees were not required to file Pre-Election Reports for the Republican and Democratic Caucuses that were held to nominate candidates for the Special General Election. These reports were not required because there was not enough time before the party conventions for the committees to file a report. In addition to this short time frame, all candidates participating in the party conventions had not been officially identified.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special General Election and all political committees which support candidates in this election must file a 12-day Pre-General Report, due on October 22, 1992, with coverage dates from the close of books of the last report filed, or from the date of the committee's first activity, through October 22, 1992, with coverage dates from the close of books of the last report filed, or from the date of the committee's first activity, through October 14, 1992; and a 30-day Post-General Report by December 3, 1992, with coverage dates from October 15 through November 23, 1992. Such committee must also file a Year-End Report by January 31, 1993, with coverage dates from November 24, 1992, through December 31, 1992.

CALENDAR OF REPORTING DATES FOR THE NORTH CAROLINA SPECIAL GENERAL ELECTION ON NOVEMBER 3, 1992

Report	Period covered*	Reg./ cert. mailing date**	Filing date
Pre-General	10/01/92–10/14/92	10/19/92	10/22/92
Post-General	10/15/92–11/23/92	12/03/92	12/03/92
Year-End	11/24/92–12/31/92	01/31/93	01/31/93

* The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity

** Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: September 29, 1992.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 92–24054 Filed 10–2–92; 8:45 am]

BILLING CODE 6715–01–M

[Notice 1992–17]

Filing Dates for the New York Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for a special election.

SUMMARY: New York has scheduled a Special General Election on November 3, 1992, for the 8th Congressional District, to fill the seat of the late Congressman Ted Weiss. Committees required to file a report in connection with the Special General Election, must file a Pre-General Report by October 22, 1992, and a Post-General Report by December 3, 1992.

Committees were not required to file Pre-Election Reports for the Republican and Democratic Caucuses that were held to nominate candidates for the Special General Election. These reports were not required because there was not enough time before the party conventions for the committees to file a report. In addition to this short time frame, all candidates participating in the party conventions had not been officially identified.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special General Election and all political committees which support candidates in this election must file a 12-day Pre-General Report, due on October 22, 1992, with coverage dates from the close of books of the last report filed, or from the date of the committee's first activity, through October 14, 1992; and a 30-day Post-General Report by December 3, 1992, with coverage dates from October 15 through November 23, 1992. Such committees must also file a Year-End Report by January 31, 1993, with coverage dates from November 24, 1992, through December 31, 1992.

CALENDAR OF REPORTING DATES FOR THE NEW YORK SPECIAL GENERAL ELECTION ON NOVEMBER 3, 1992

Report	Period covered*	Reg./ cert. mailing date**	Filing date
Pre-General	10/01/92–10/14/92	10/19/92	10/22/92
Post-General	10/15/92–11/23/92	12/03/92	12/03/92
Year-End	11/24/92–12/31/92	01/31/93	01/31/93

* The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

** Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: September 29, 1992.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 92-24055 Filed 10-2-92; 8:45 am]

BILLING CODE 6715-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Adjustment of Disaster Grant Amounts

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 93-288, as amended, prescribes that grants made under section 411, Individual and Family Grant Program, and grants made under section 422, Simplified Procedure, relating to the Public Assistance program, shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

EFFECTIVE DATE: October 1, 1992.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the maximum amount of any grant made to an individual or family for disaster-related serious needs and necessary expenses under section 411 of the Act, with respect to any single disaster, is increased to $11,900 for all disasters declared after October 1, 1992.

Notice is also hereby given that the amount of any grant made to the State, local government, or at the owner or operator of an eligible private nonprofit facility, under section 422 of the Act, is increased to $41,300 for all disasters declared after October 1, 1992.

The increase is based on a rise in the Consumer Price Index for All Urban Consumers of 3.1 percent for the prior 12-month period. The information was published by the Department of Labor during September 1992.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Wallace E. Stickney,

Director.

[FR Doc. 92-24051 Filed 10-2-92; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

September 29, 1992.

Backgound

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following survey proposal and form, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. The Board requests comments on the estimated average hours per response of the survey (part I and part II separately). At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATES: Comments must be submitted on or before October 19, 1992.

ADDRESSES: Comments, which should refer to the OBM Docket number should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Street, NW., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street NW. Comments received may be inspected in room B-1122 between 9 a.m. and 5 p.m., except as provided in 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Mary McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Proposal to approve under OMB delegated authority the implementation of the following report:

Report title: Survey of Costs of Truth in Savings.

Agency form number: FR 3074.

OMB Docket number: 7100-0257.

Frequency: One-time survey.

Reporters: Commercial banks and thrift institutions.

Annual reporting hours: To be determined.

Estimated average hours per response: Public comment solicited.

Number of respondents: Approximately 700.

Small businesses are affected.

General description of report: This information collection is voluntary (12 U.S.C. 4308(a)(3) and 4308(b)(1)) and is given confidential treatment (5 U.S.C. 552(b)(4)).

SUMMARY: The survey will be conducted in two parts. The first part, to be collected in November 1992, will gather information on account practices before implementation of the regulation. The second part, to be collected in April 1993 shortly after compliance with the regualtion becomes mandatory, will gather information on start-up compliance costs and changes in account practices due to the regulation. Results from the survey should become available during the fourth quarter of 1993. The proposed survey is published below. The survey will assess the impact of the Truth in Savings regulation on the financial industry. In addition, the data will increase general knowledge of the impact of regulatory costs, improving the ability of the Federal Reserve to evaluate the costs of other new regulations and to respond to Congressional requests on the potential costs of proposed statutes concerning consumer protection for financial products. Statutes in this area typically concern information disclosures, which is also the main objective of Truth in Savings. A copy of the survey is attached.

SUPPLEMENTARY INFORMATION: Information on the costs of implementing a regulation is an important component of regulatory analysis that is typically unavailable. Cost analysis can be important in finding ways to reduce regulatory burden and in complying with the

Board's policy statement that calls for minimizing compliance costs and for periodic reviews of regulations and the Regulatory Flexibility Act, which requires an economic analysis of the impact of regulation on small business.

Available information. Information on the costs of regulations is very limited. Accounting systems used by financial institutions do not normally segregate regulatory costs from other costs. Data on regulatory costs are only available from studies designed to collect them.

Case studies are one source of information on the cost of regulation. Case studies often provide accurate and comprehensive information about costs at one or a small number of financial institutions. However, different case studies generally are not comparable because of differences in methodology, and the representativeness of data from case studies is unknown. Moreover, case studies cannot provide information on the variability of costs across the population of institutions, a consideration that is important for preforming responsibilities under the Regulatory Flexibility Act.

Estimates of costs derived from econometric studies using secondary data are also occasionally undertaken. Typically, such studies estimate costs using correlations between activity costs and regulatory differences across observations in cross-section data or examining changes in costs when regulations change in time-series data. The problem is that the regulation in question is seldom the only factor affecting costs. It is often difficult to control adequately for each of the separate factors that influence costs. Even in multivariate statistical models, it is sometimes not possible to conclude with confidence that the estimated difference in the cost of an activity is due to the regulation.

Surveys are a third source for estimates of costs of regulation. Although survey information on particular components of regulatory costs have been fairly common in some areas, surveys collecting comprehensive data on costs of regulations covering financial services are rare. Such surveys require a level of detail nearly equal to that of case studies but on a much larger scale.

There have been a few surveys of the costs of regulations for consumer financial services. These surveys have been successful in showing differences in costs across different size groups of banks and in identifying the impact of regulations on various cost categories (such as administration, training, and labor). Their results have been used in many regulatory analyses at the Board.

Proposed survey. The implementation of the Truth in Savings regulation provides an opportunity to track start up costs contemporaneously with the implementation of the regulation. During the comment period on the proposed regulation, the Board received many letters from financial institutions stating that the compliance costs for the proposed regulation will indeed be costly. Yet few of these comments provided actual cost estimates. The proposed survey of the costs of Truth in Savings will extend the work of previous surveys of regulatory costs. It will provide information on the process of complying with a new regulation, estimate the costs of specific activities undertaken to comply with the regulation, and permit an assessment of the relationship between overall regulatory costs and the extent of changes in existing procedures.

Not only will the data help assess the cost of the Truth in Savings Act; the data also will increase general knowledge of the impact of regulatory costs, especially regulatory costs involving information disclosures. Because many proposed and existing statutes are primarily concerned with information disclosures, the data will improve the ability of the Federal Reserve to evaluate costs of regulatory proposals and to report on the potential start-up cost of proposed statutes that require new disclosures.[1] Congress frequently asks the Board its views on proposed legislation. This information will help the Board formulate and support its views.[2]

Description of Information Collection

Reporting panel. 2,500 commercial banks (out of a universe of 14,000) will be asked to participate in the survey: the 600 banks that either currently participate or are expected to participate in the Federal Reserve's Functional Cost Analysis program,[3] an additional 900 volunteer banks identified by banking trade associations, and 1,000 randomly selected other banks. In addition, approximately 2,000 thrifts belonging to a thrift trade association will be asked to participate. Participation in the survey will be voluntary. Based on experience with similar surveys, responses from about 500 banks and 200 thrifts are expected.

The first two groups of banks will not be randomly selected. Much of the data requested cannot be provided without special efforts because accounting systems used by banks do not normally segregate compliance costs from other costs. Participants in the Functional Cost Analysis program already choose to make the effort and have experience in allocating costs to specific functions not normally segregated in conventional accounting. The sample of banks obtained from the banking trade associations will have agreed to cooperate with the Federal Reserve System to estimate these data. It is expected that respondents from these two groups will provide high-quality responses and help ensure that useful results will be obtained.

The third, randomly selected group of other banks provides coverage for the population not included in the first two groups. The third group is needed to compare regulatory costs across size classes of firms, an important objective of this survey. The first two samples of banks do not provide a sufficient number of medium-sized and large banks to achieve this objective.

The thrift sample will be obtained from the membership of a national thrift trade association. Based on its experience, the association expects to obtain about 200 respondents, with adequate participation by large and small institutions. This response should permit population estimates for the thrift industry and comparisons with commercial banks.

Survey questionnaire. The questionnaire contains questions on (1) deposit account practices and policies before implementation of Truth in Savings; (2) changes in account terms, types of accounts, and account-related services resulting from the law; (3) the various types of costs estimated to have been incurred in complying with Truth in Savings; and (4) certain characteristics of the respondents such as the number of consumer deposit accounts, which may be important for interpreting the significance of institutions' compliance costs.

Schedule and procedures for collection and processing. The questionnaires will be sent to potential

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[1] Information on bank practices and policies for deposit accounts before Truth in Savings will also be useful for identifying potential benefits to consumers from the law.

[2] Consumer survey data on information policies and problems associated with deposit accounts will be collected using the Survey of Consumer Attitudes conducted by the Survey Research Center of the University of Michigan. These data will assist the Board in assessing the impact of Truth in Savings on consumers.

[3] The Functional Costs Analysis program is a voluntary cost accounting system that collects cost, productivity, revenue, and profitability data for several product lines at depository institutions. The Federal Reserve Banks control and administer the Functional Costs Analysis program, which is provided as a service to participating banks at a charge of $150 per bank.

participants in October 1992. The first part of the questionnaire, which covers practices before Truth in Savings, will be collected in November 1992. The second part, which covers compliance costs, will be collected from respondents in April 1993 shortly after compliance with the final regulation becomes mandatory. Results from the survey should be available during the fourth quarter of 1993 and will be published in aggregate form.

The questionnaires will be mailed directly to potential respondents from the Board or the respective trade organizations, along with a cover letter explaining the purpose of the survey and requesting participation.[4] Respondents failing to return the first part of the questionnaire will be sent a second, follow-up mailing.

In early 1993, respondents will be sent reminder notices of the April 1993 collection date. Then, in April 1993, respondents will return the completed questionnaires to Board.

Consultation Outside the Agency

As discussed earlier, industry trade associations will provide volunteer institutions to participate in the survey. Industry trade associations and individual financial institutions have provided advice during questionnaire development.

Sensitive Questions

There are no sensitive questions as per OMB guidelines.

Estimate of Respondent Burden

The information requested is not readily available from respondents. Beyond that general assessment, the Federal Reserve is unable to estimate the number of hours that would be needed for institutions to track costs during the period that the survey is in the field and then to complete the survey. The Board is thus requesting comment on the estimated number of hours required to complete both parts of the survey.

Board of Governors of the Federal Reserve System, September 29, 1992.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

[4] A hotline will be established at the Board to answer questions from participants.

FR 3074
OMB No. 7100–0257
Expires _____

TRUTH IN SAVINGS SURVEY

This survey is authorized by law [12 USC 4308(a)(3)&(b)(1)]. Your voluntary cooperation in submitting this survey is needed to make the results comprehensive, accurate, and timely.

Public reporting burden for this information collection is estimated to average ___ hours per response including time to gather the data in the required form and to review instructions and complete the information collection. Comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing the burden, may be sent to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, and to the Office of Management and Budget, Paperwork Reduction Project (7100–0257), Washington, DC 20503.

PURPOSE OF THE SURVEY

The survey will be used by the Federal Reserve System to assess the cost to financial institutions of implementing the Truth in Savings Act.

GENERAL INSTRUCTIONS

This survey consists of two parts. Part I asks about the institution's policies and practices for consumer deposit accounts before the implementation of the Truth in Savings legislation. For this section, report the policies that were in effect as of January 1, 1992. Part I may be completed by a marketing manager at your institution.

Part II asks about start–up compliance costs and changes in the types of consumer accounts and account terms associated with Truth in Savings. The questions in Part II focus on the one–time costs of complying with Regulation DD that have been or will be incurred between September 21, 1992, and March 21, 1993, when compliance with the regulation becomes mandatory. Part II should be completed by a senior financial officer.

Part I should be filed by November 15, 1992.

Part II should be filed by April 1, 1993.

Please return each part of the survey to:

Ms. Barbara Lowrey
Office of the Secretary
Mail Stop 29
Board of Governors of the Federal Reserve System
Washington, DC 20551

HOTLINE number for questions on the survey: 1–800–000–0000.

_____ Name of Reporting Institution

_____ Person to be contacted concerning this report

_____ Address

_____ (Area code) Telephone number and extension

FR 3074

TRUTH IN SAVINGS SURVEY

Part I: Account Practices Before Truth in Savings

GENERAL INSTRUCTIONS

These questions pertain to your institution's policies and practices before Truth in Savings for six types of consumer accounts: demand deposits, NOW, MMDA, statement savings, passbook savings, and time deposit accounts. If your institution offers more than one variety of an account, *answer the questions with regard to the account variety with the greatest number of accounts.* Report the policies that were in effect as of January 1, 1992.

SPECIFIC INSTRUCTIONS

Item A Enter an "x" in the appropriate box. If the "other" category is checked for question 2, specify the method used on the space provided in line 2e. If an item in question 3 or 4 is not a *feature* of a particular account, enter "NA" in the "yes" box.

Item B Enter an "x" in the appropriate box. For questions 3–5, enter the number of days in the "yes" box.

Item C Enter the percentage in whole numbers.

DEFINITIONS:

NOTE: In general, definitions of the following deposit accounts correspond to those in Regulation D. General descriptions of the accounts are provided below. For a more detailed description of the accounts, please refer to the instructions for preparation of the Report of Transaction Accounts, Other Deposits, and Vault Cash (FR 2900) or to Regulation D. Please note, however, that this regulation no longer distinguishes between various types of savings accounts--e.g., MMDAs, statement savings, and passbook savings. For purposes of this survey, these accounts are defined below.

DEMAND DEPOSIT ACCOUNT: A noninterest–bearing deposit that is payable on demand. (Include in these accounts POWs and NINOWs.)

NOW ACCOUNT: An interest–bearing deposit on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account and that can be withdrawn or transferred to third parties by issuance of a negotiable or transferable instrument.

SAVINGS ACCOUNT: A deposit with no specified maturity but for which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account. Certain transfers and withdrawals from a savings deposit are limited to no more than *six* per month or statement cycle, and no more than *three* of the six may be made by check or similar order.

For purposes of this survey, three types of savings accounts are addressed, as follows:

MMDA: A type of savings account that allows transfers or withdrawals (but no more than *three* per calendar month or statement cycle) to third parties by *check or draft.* MMDAs are commonly referred to as "checkable savings deposits."

STATEMENT SAVINGS: A type of savings account for which the customer receives from the institution a periodic record of transactions on the account.

PASSBOOK SAVINGS: A type of savings account for which the customer retains a book in which the institution records transactions on the account.

TIME DEPOSIT ACCOUNT: An account from which the depositor is not permitted to make withdrawals within six days after the date of deposit unless the deposit is subject to an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within the first six days after deposit. Time deposits include certificates of deposit (CDs) and time open accounts.

NOTE: The following definitions are based on Regulation DD.

Method of Computing the Balance on Which Interest is Paid:

DAILY BALANCE METHOD: A rate is paid based on the full amount of principal in the account each day.

AVERAGE DAILY BALANCE METHOD: A rate is paid based on the average daily balance of principal in the account for the payment period.

LOW BALANCE METHOD: A rate is paid based on the lowest amount of principal in the account on any day in the period.

INVESTABLE BALANCE METHOD: A rate is paid on only a portion of the principal in the account for the payment period.

PERIODIC STATEMENT: A statement setting forth information about an account that is provided to a consumer on a regular basis four or more times per year.

GRACE PERIOD: A period of time following the maturity of an automatically renewing time account during which the consumer may withdraw funds without being assessed a penalty.

ADVERTISEMENT: A commercial message, appearing in any medium, that promotes directly or indirectly the availability of, or a deposit in, an account.

PART I – ACCOUNT PRACTICES BEFORE TRUTH IN SAVINGS

Terms appearing below in bold capital letters are defined in the instructions to Part I.

Type of Account									
				Savings					
Demand		NOW		MMDA		Statement		Passbook	
Yes	No	Yes	No	Yes	No	Yes	No	Yes	No

A. DEMAND, NOW, and SAVINGS ACCOUNTS:

1. Did your institution offer this type of account?

Complete questions 2 to 5 for any column in which the answer to question 1 was "yes".

2. Was the method of computing the balance on which interest was paid?

   a. **DAILY BALANCE**

   b. **AVERAGE DAILY BALANCE**

   c. **LOW BALANCE**

   d. **INVESTABLE BALANCE**

   e. other (specify:_____
   _____
   _____)

3. Did your institution provide written and retainable disclosure statements when consumers opened new accounts, or were they informed in some other way?

   a. written

   b. other

   If written, which of the following items were included in the disclosure?

   c. method of determining the balance on which interest was paid

   d. yield that reflects the effect of compounding during the year

   e. simple interest rate

   f. frequency of compounding

	Type of Account									
							Savings			
	Demand		NOW		MMDA		Statement		Passbook	
	Yes	No	Yes	No	Yes	No	Yes	No	Yes	No
g. statement that the interest rate was subject to change										
h. minimum balance required to earn interest										
i. fees per check										
j. check printing fees										
k. fees for insufficient funds (NSF fees)										
l. periodic account maintenance fees										
m. minimum balance required to avoid fees										
n. ATM usage fees										
4. Did your institution send consumers written advance notification of changes in account terms, either in **PERIODIC STATEMENTS** or separate notice?										
If so, which of the following terms were included in the notice?										
a. method of determining the balance on which interest was paid										
b. yield that reflects the effect of compounding during the year										
c. simple interest rate										
d. frequency of compounding										
e. statement that the interest rate was subject to change										
f. minimum balance required to earn interest										
g. fees per check										
h. check printing fees										
i. fees for insufficient funds (NSF fees)										
j. periodic account maintenance fees										

k. minimum balance required to avoid fees

l. ATM usage fees

5. Did your institution provide **PERIODIC STATEMENTS** for the account four or more times a year?

If so, which of the following items were included in the statements?

a. dollar amount of interest

b. yield that reflects the effect of compounding during the year

c. itemized list of fees

d. either the number of days in the statement period or the beginning and ending dates for the statement period

Type of Account									
				Savings					
Demand		NOW		MMDA		Statement		Passbook	
Yes	No	Yes	No	Yes	No	Yes	No	Yes	No

B. TIME DEPOSITS

1. Did your institution offer accounts in this maturity range?

Complete questions 2 to 5 for any column in which the answer to question 1 was "yes".

2. Did your institution provide written and retainable disclosure statements when consumers opened new accounts, or were they informed in some other way?

a. written

b. other

If written, which of the following items were included in the disclosure?

c. yield that reflects the effect of compounding during the year

d. simple interest rate

less than 1 month		1 to 6 months		6 to 12 months		more than 1 year	
Yes	No	Yes	No	Yes	No	Yes	No

less than 1 month		1 to 6 months		6 to 12 months		more than 1 year	
Yes	No	Yes	No	Yes	No	Yes	No

e. frequency of compounding

f. penalty for early withdrawal

g. maturity date

h. length of **GRACE PERIOD** for renewal (enter "NA" in the "yes" box if not a feature of the account)

Complete questions 3 and 4 for any time deposits that are automatically renewed upon maturity.

3. Did your institution send advance notice of renewal to consumers?

   If so:

   a. Did this notice contain information on the interest rate or any other terms of the renewal?

   b. How many days before maturity did your institution mail notice of upcoming renewal?

4. Did your institution provide a **GRACE PERIOD** for renewal of reinvested funds after the maturity date?

   If so, how long was the **GRACE PERIOD**?

Complete question 5 for any time deposits that are <u>not</u> automatically renewed upon maturity.

5. Did your institution send advance notice of renewal to consumers?

   If so, how many days before maturity did your institution mail notice of upcoming renewal?

C. Advertising:

During the second half of 1991, approximately what percentage of your institution's **ADVERTISEMENTS** mentioned interest rates or yields? (Enter "NA" if your institution did not advertise.) Report the nearest whole number.

1. Newspaper, magazine, posters, mailings _____%

2. Television, radio, electronic billboards _____%

FR 3074

TRUTH IN SAVINGS SURVEY

Part II: Start–Up Costs and Changes in Products

GENERAL INSTRUCTIONS

Report the one–time, start–up costs of complying with Regulation DD. Exclude any estimates of recurring costs of compliance.

Cost categories are provided to assist in accounting for costs of compliance activities. Your institution may not incur costs in every category. *If there are no costs for a particular category, enter zero in the space provided.*

You may not be able to allocate costs precisely to some categories. If you cannot separate costs between two categories, enter the combined amount in one line and enter "included with letter ___" in the second line. For example, if you cannot separate the costs of training materials in section II.B.3 between development expenses (line a) and production expenses (line b), enter the total for these two items in line a and enter "included with line a" for line b. If you are unable to allocate costs to any of the subcategories, leave the spaces blank and enter the *total* costs for that category in the "subtotal" line.

Please include expenses for benefits and overhead for your employees. Round all data to the nearest whole dollar.

SPECIFIC INSTRUCTIONS

Compliance Costs

Items A–C Enter the amount in dollars.

Changes in Products

Item D Enter an "x" in the appropriate box.

Item E For questions 1–3, enter an "x" in the appropriate box. For question 4, enter the number and dollar amount of consumer acounts and the number of different products for each account category. For time deposits, the number of products should include products by *feature* (e.g., IRAs, Christmas Club) rather than by maturity.

Name of Reporting Institution

Person to be contacted concerning this report

Address

(Area code) Telephone number and extension

PART II: START–UP COSTS AND CHANGES IN PRODUCTS

	Amount in Dollars
A. Compliance Costs Incurred Before Issuance of the Final Regulation on September 21, 1992:	
1. Management and legal expenses for review of proposed regulation	
2. Management and legal expenses for preliminary analysis of products and practices	
3. Preparation of comment letter	
4. Other (specify _____)	
5. Subtotal (Sum of 1, 2, 3, and 4)	
B. One–time, Start–up Costs Incurred After Issuance of Final Regulation on September 21, 1992, and before March 31, 1993.	
1. Management and in–house legal expenses:	
a. Evaluation of the regulation; analysis of existing programs, products, and practices	
b. Alteration of existing products and development of new products; revision of policies and procedures for delivery of the products	
c. Assessment of data processing requirements; evaluation of new equipment and software, supervision of programming	
d. Development of procedures for record retention	
e. Design of internal compliance audit program	
f. Other (specify _____)	
g. Subtotal (Sum of 1a, 1b, 1c, 1d, 1e, and 1f)	
2. Fees for outside legal services	
3. Training:	
a. Development of training materials	
b. Production expenses for training materials; purchases of training materials from outside sources	
c. Time of in–house and outside trainers	
d. Time of employees in training (including travel time for outside training)	

	Amount in Dollars
e. Travel expenses and registration fees for outside training	
f. Other (specify _____)	
g. Subtotal (Sum of 3a, 3b, 3c, 3d, 3e, and 3f)	
4. Data processing and system changes:	
a. Purchase, capitalized value of leases, enhancements, installation of new equipment	
b. Purchase and installation of software	
c. Programming and testing; cost of outside contractors (include programming for new forms and notices to existing accountholders)	
d. Other (specify _____)	
e. Subtotal (Sum of 4a, 4b, 4c, and 4d)	
5. Disclosure statements:	
a. Design of forms	
b. Purchase or production expenses for disclosures to new accounts	
c. Purchase or production expenses for disclosures to existing accountholders incurred *prior to March 21, 1993.*	
d. Estimated purchase or production expenses for disclosures to existing accountholders incurred *after March 21, 1993.*	
e. Mailing costs for disclosures to existing accountholders (include costs incurred prior to March 21, 1993 and estimates of costs to be incurred after March 21, 1993).	
f. Destruction of old forms (includes the value of the inventory and costs of collecting and disposal of old forms)	
g. Other (specify _____)	
h. Subtotal (Sum of 5a, 5b, 5c, 5d, 5e, 5f)	
6. Miscellaneous expenses:	
a. Acquisition of storage facilities for new forms	

	Amount in Dollars	
b. Purchases of books and other publications		
c. Production of manuals (excluding training manuals reported in 3b above)		
d. Clerical support		
e. Telephone and other communication costs		
f. Office supplies		
g. Subtotal (Sum of 6a, 6b, 6c, 6d, 6e, and 6f)		
7. Other costs (specify _____)		
C. Total start–up compliance costs (Sum of A5, B1g, B2, B3g, B4e, B5h, B6g, and B7)		

D. Changes in Accounts and Account Terms Due to Truth Savings:	Yes	No
1. Has your institution discontinued or does it plan to discontinue offering specific types of consumer deposit accounts?		
If so, what types of accounts are being discontinued?		
a. consumer demand deposits		
b. NOW accounts		
c. MMDAs		
d. passbook savings deposits		
e. statement savings accounts		
f. time deposits		
g. other (specify: _____ _____)		
2. Was the primary reason for discontinuing the account(s)?		
a cost of providing initial disclosure		
b. cost of disclosing changes in account terms		
c. concern about civil liability		
d. other (specify: _____ _____)		
3. Has your institution changed or does it plan to change its offerings of specific features associated with deposit accounts?		
If so, which features are being changed?		
a. provide periodic statements less frequently or not at all		
b. discontinue or reduce bonuses		
c. discontinue early withdrawal of interest from time deposits		
d. charge explicitly for services formerly provided free to accountholders		
e. other (specify: _____ _____)		
4. Was the reason for changing the feature?		
a. cost		
b. concern about civil liability		
c. other (specify: _____ _____)		

	Yes	No
5. Has your institution changed or does it plan to change the terms on any deposit accounts?		
If so, what terms are being changed?		
a. lower interest rates		
b. higher fees		
c. other terms (specify: _____ _____)		
6. Will your institution offer any new types of accounts? (specify: _____)		

E. Memoranda

1. Did your institution benefit or does it expect to benefit in any way from Truth in Savings?		
If so, how did your institution benefit?		
a. cost savings from consolidation of accounts		
b. elimination of underutilized accounts		
c. other (specify: _____)		
2. Does your institution use a service bureau for data processing of consumer deposit accounts?		

3. Relative to the second half of 1991, does your institution plan to promote annual yields in 1993 more, about the same, or less?	More	Same	Less
a. in printed advertisements (newspapers, magazines, posters, mailings)			
b. in other advertisements (television, radio, electronic billboards)			

4. Consumer deposit accounts as of March 31, 1992:	Number of Accounts	Amount ($ thousands)	Number of Products
a. consumer demand deposits			
b. NOW accounts			
c. MMDAs			
d. other savings deposits			
e. time deposits			

[FR Doc. 92-23993 Filed 10-2-92; 8:45 am]
BILLING CODE 6210-01-C

Elinor M. Garner Family Trust, 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 October 19, 1992.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Elinor M. Garner Family Trust, Clinton, Arkansas; to retain 7.24 percent; G. Robert Garner, Clinton, Arkansas, to retain 0.18 percent; and G. Robert Garner Family Trust, Clinton, Arkansas, to acquire 5.50 percent of the voting shares of Clin-Ark Bankshares, Inc., Clinton, Arkansas, and thereby indirectly acquire First National Bank, Clinton, Arkansas.

Board of Governors of the Federal Reserve System, September 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24048 Filed 10-2-92; 8:45 am]

BILLING CODE 6210-01-F

First Virginia Banks, Inc., et al.; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 29, 1992.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Virginia Banks, Inc., Falls Church, Virginia; to engage *de novo* in making equity or debt investments in entities formed to promote community welfare by making loans for low- to moderate-income housing projects pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Maryland, Virginia and Tennessee.

Board of Governors of the Federal Reserve System, September 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24049 Filed 10-2-92; 8:45 am]

BILLING CODE 6210-01-F

Fleet Financial Group, Inc., Providence, Rhode Island; Application to Engage in Asset Management Activities

The organization listed in this notice has applied under § 225.23(a)(1) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(1) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 26, 1992.

A. Federal Reserve Bank of Boston (Robert Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. Fleet Financial Group, Inc., Providence, Rhode Island; to engage *de novo* in asset management activities through its subsidiary Fleet Management and Recovery Corporation, Boston, Massachusetts. The Board has previously approved bank holding companies to engage in asset management activities. *See, e.g., Michigan National Corporation*, 78 Federal Reserve Bulletin 65 (1992); *NCNB Corporation*, 77 Federal Reserve Bulletin 124 (1991). Fleet Financial Group, Inc. also proposes to service performing as well as non-performing assets.

Board of Governors of the Federal Reserve System, September 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24047 Filed 10-2-92; 8:45 am]

BILLING CODE 6210-01-F

Pioneer Bankcorp, 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 October 29, 1992.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Pioneer Bankcorp, Clewiston, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Clewiston, Clewiston, Florida.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Franklin Bancorp, Inc., Minneapolis, Minnesota; to acquire 81 percent of the voting shares of Park Financial of St. Paul, Inc., St. Paul, Minnesota, and thereby indirectly acquire St. Anthony Park State Bank, St. Paul, Minnesota.

2. West River Holding Company, Hettinger, North Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of West River State Bank, Hettinger, North Dakota.

Board of Governors of the Federal Reserve System, September 29, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-24050 Filed 10-2-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92M-0227]

McGhan Medical Corp.; Partial Denial of Approval of McGhan Intrashiel®, UHP®, and Biocell® Fixed Volume Prostheses and Variable Volume Prostheses Premarket Approval Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its partial denial of approval of the premarket approval application under the Medical Device Amendments of 1976 of the McGhan Intrashiel®, UHP®, and Biocell® Fixed Volume Prostheses and Variable Volume Prostheses, sponsored by the McGhan Medical Corp. After reviewing the recommendation of the General and Plastic Surgery Devices Panel and analyzing the data and information submitted in support of the application, FDA's Center for Devices and Radiological Health (CDRH) notified the sponsor by letter dated April 16, 1992, that the application was denied approval for use of the device in augmentation of the healthy female breast on the grounds that the device had not been shown to be safe and effective for such use as recommended in the submitted labeling. The agency determined, however, that for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only.

ADDRESSES: Requests for copies of the letter to the sponsor denying approval of the application for use of the device in augmentation of the healthy female breast, and the summary of the safety and effectiveness data, may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Office of Device Evaluation (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION: On July 9, 1991, the McGhan Medical Corp., 700 Ward Dr., Santa Barbara, CA 93111, submitted to CDRH an application for premarket approval of the McGhan Intrashiel®, UHP®, and Biocell® Fixed Volume Prostheses and Variable Volume Prostheses, a silicone gel-filled breast prosthesis. On November 12 to 14, 1991, the application was reviewed by the General and Plastic Surgery Panel of the Medical Devices Advisory Committee, an FDA advisory committee, which recommended that the application not be approved. On April 16, 1992, the Director of CDRH sent a letter to the sponsor denying approval of the application for use of the device in augmenting the healthy female breast. For purposes of this decision, the term "augmentation" means cosmetic augmentation of a healthy female breast, including surgery for mammary hypoplasia, and surgery whose primary purpose is a cosmetic change to enhance self-esteem or to provide psychological benefit. The letter advised the sponsor of its right to file, within 30 days of its receipt of the letter, a petition for a formal hearing on, or for an independent advisory committee review of, CDRH's decision. No petition was filed within that time period, and therefore, the time for appeal has expired.

In accordance with section 515(d)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(1)(B)(i)), the agency determined that, for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only. For purposes of this decision, the term "reconstruction" means reconstruction surgery of the female breast following mastectomy, breast injury, burns, or trauma; surgery to correct serious congenital deformities (e.g., Poland's syndrome) or interrupted growth attributed to radiation therapy (e.g., treatment of teenagers with Hodgkin's disease); or replacement or revision surgery to replace an implant for a documented medical reason (e.g., implant rupture, leakage).

Copies of CDRH's letter denying approval of the application for use of the device in augmenting the healthy female breast and the summary of safety and effectiveness data on which CDRH's decision is based are on file with the Dockets Management Branch (address above) and are available upon request from that office. Requests should be identified with the name of the device and docket number found in brackets in the heading of this document.

Dated: September 28, 1992.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 92-23988 Filed 10-2-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92M-0226]

Mentor Corp.; Partial Denial of Approval of the Premarket Approval Application for Mentor Low Bleed Gel-Filled Mammary Prosthesis Smooth or Siltex Textured

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its partial denial of approval of the premarket approval application, under the Medical Device Amendments of 1976, of the Mentor Low Bleed Gel-Filled Mammary Prosthesis Smooth or Siltex Textured sponsored by Mentor Corp. After reviewing the recommendation of the General and Plastic Surgery Devices Panel and analyzing the data and information submitted in support of the application, FDA's Center for Devices and Radiological Health (CDRH) notified the sponsor by letter dated April 16, 1992, that the application was denied approval for use of the device in augmentation of the healthy female breast on the grounds that the device had not been shown to be safe and effective for such use as recommended in the submitted labeling. The agency determined, however, that for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for that application for that use only.

ADDRESSES: Requests for copies of the letter to the sponsor denying approval of the application for use of the device in augmentation of the healthy female breast and the summary of the safety and effectiveness data may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION: On July 8, 1991, Mentor Corp., 600 Pine Ave., Goleta, CA, submitted an application to CDRH for premarket approval of the Mentor Low Bleed Gel-Filled Mammary Prosthesis Smooth or Siltex Textured, a silicone gel-filled breast prosthesis. On November 12 through 14, 1991, the application was reviewed by the General and Plastic Surgery Panel of the Medical Devices Advisory Committee, an FDA advisory committee. The Panel recommended that the application not be approved.

On April 16, 1992, the Director of CDRH sent a letter to the sponsor denying approval of the application for use of the device in augmenting the healthy female breast. For purposes of this decision, the term "augmentation" means cosmetic augmentation of a healthy female breast, including surgery for mammary hypoplasia and surgery whose primary purpose is a cosmetic change to enhance self-esteem or to provide psychological benefit. The letter advised the sponsor of its right to file, within 30 days of its receipt of the letter, a petition for a formal hearing on, or for an independent advisory committee review of, CDRH's decision. No petition was filed within that time period, and therefore, the time for appeal has expired.

In accordance with section 515(d)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(1)(B)(i)), the agency determined that, for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only. For purposes of this decision, the term "reconstruction" means reconstruction surgery of the female breast following mastectomy, breast injury, burns or trauma; surgery to correct serious congenital deformities (e.g., Poland's syndrome) or interrupted growth attributed to radiation therapy (e.g., treatment of teenagers with Hodgkin's Disease); or replacement or revision surgery to replace an implant for a documented medical reason (e.g., implant rupture or leakage).

Copies of CDRH's letter denying approval of the application for use of the device in augmenting the healthy female breast and the summary of safety and effectiveness data on which CDRH's decision is based are on file with the Dockets Management Branch (address above) and are available upon request from that office. Requests should be identified with the name of the device and docket number found in brackets in the heading of this document.

Dated: September 28, 1992.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 92-23987 Filed 10-2-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92M-0228]

Mentor Corp.; Partial Denial of Approval of Mentor Combination Gel-Saline Mammary Prosthesis Smooth or Siltex Textured Surface Premarket Approval Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its partial denial of approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Mentor Combination Gel-Saline Mammary Prosthesis Smooth or Siltex Textured Surface, sponsored by Mentor Corp. After reviewing the recommendation of the General and Plastic Surgery Device Panel and analyzing the data and information submitted in support of the application, FDA's Center for Devices and Radiological Health (CDRH) notified the sponsor by letter dated April 16, 1992, that the application was denied approval for use of the device in augmentation of the healthy female breast on the grounds that the device had not been shown to be safe and effective for such use as recommended in the submitted labeling. The agency determined, however, that for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for that application for that use only.

ADDRESSES: Requests for copies of the letter to the sponsor denying approval of the application for use of the device in augmentation of the healthy female breast, and the summary of the safety and effectiveness data, may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION: On July 8, 1991, Mentor Corp., 600 Pine Ave., Goleta, CA 93117, submitted to CDRH

an application for premarket approval of the Mentor Combination Gel-Saline Mammary Prosthesis Smooth or Siltex Textured Surface, a silicone gel-filled breast prosthesis. On November 12 to 14, 1991, the application was reviewed by the General and Plastic Surgery Panel of the Medical Devices Advisory Committee, an FDA advisory committee, which recommended that the application not be approved. On April 16, 1992, the Director of CDRH denied approval of the application for use of the device in augmenting the healthy female breast by a letter to the sponsor. For purposes of this decision, the term "augmentation" means cosmetic augmentation of a healthy female breast, including surgery for mammary hypoplasia, and surgery whose primary purpose is a cosmetic change to enhance self-esteem or to provide psychological benefit. The letter advised the sponsor of its right to file, within 30 days of its receipt of the letter, a petition for a formal hearing on, or for an independent advisory committee review of, CDRH's decision. No petition was filed within that time period and, therefore, the time for appeal has expired.

In accordance with section 515(d)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(1)(B)(i)), the agency determined that, for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only. For purposes of this decision, the term "reconstruction" means reconstruction surgery of the female breast following mastectomy, breast injury, burns, or trauma; surgery to correct serious congenital deformities (e.g., Poland's syndrome) or interrupted growth attributed to radiation therapy (e.g., treatment of teenagers with Hodgkin's disease); or replacement or revision surgery to replace an implant for a documented medical reason (e.g., implant rupture, leakage).

Copies of CDRH's letter denying approval of the application for use of the device in augmenting the healthy female breast and the summary of safety and effectiveness data on which CDRH's decision is based are on file with the Dockets Management Branch (address above) and are available upon request from that office. Requests should be identified with the name of the device and docket number found in brackets in the heading of this document.

Dated: September 28, 1992.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 92-23989 Filed 10-2-92; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 92M-0229]

Mentor Corp.; Partial Denial of Approval of Mentor Becker Expander/ Mammary Prosthesis Smooth or Siltex Textured Surface Premarket Approval Application

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its partial denial of approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Mentor Becker Expander/ Mammary Prosthesis Smooth or Siltex Textured Surface, sponsored by Mentor Corp. After reviewing the recommendation of the General and Plastic Surgery Device Panel and analyzing the data and information submitted in support of the application, FDA's Center for Devices and Radiological Health (CDRH) notified the sponsor by letter dated April 16, 1992, that the application was denied approval for use of the device in augmentation of the healthy female breast on the grounds that the device had not been shown to be safe and effective for such use as recommended in the submitted labeling. The agency determined, however, that for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only.

ADDRESSES: Requests for copies of the letter to the sponsor denying approval of the application for use of the device in augmentation of the healthy female breast, and the summary of the safety and effectiveness data, may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1090.

SUPPLEMENTARY INFORMATION: On July 8, 1991, Mentor Corp., 600 Pine Ave., Goleta, CA 93117, submitted to CDRH an application for premarket approval of the Mentor Becker Expander/Mammary Prosthesis Smooth or Siltex Textured Surface, a silicone gel-filled breast prosthesis. On November 12 to 14, 1991, the application was reviewed by the General and Plastic Surgery Panel of the Medical Devices Advisory Committee, an FDA advisory committee, which recommended that the application not be approved. On April 16, 1992, the Director of CDRH denied approval of the application for use of the device in augmenting the healthy female breast by a letter to the sponsor. For purposes of this decision, the term "augmentation" means cosmetic augmentation of a healthy female breast, including surgery for mammary hypoplasia, and surgery whose primary purpose is a cosmetic change to enhance self-esteem or to provide psychological benefit. The letter advised the sponsor of its right to file, within 30 days of its receipt of the letter, a petition for a formal hearing on, or for an independent advisory committee review of, CDRH's decision. No petition was filed within that time period and, therefore, the time for appeal has expired.

In accordance with section 515(d)(1)(B)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(1)(B)(i)), the agency determined that, for women seeking breast reconstruction, continued availability of the device, under strict controls, is necessary for the public health and, consequently, agreed to extend the review period for the application for that use only. For purposes of this decision, the term "reconstruction" means reconstruction surgery of the female breast following mastectomy, breast injury, burns, or trauma; surgery to correct serious congenital deformities (e.g., Poland's syndrome) or interrupted growth attributed to radiation therapy (e.g., treatment of teenagers with Hodgkin's disease); or replacement or revision surgery to replace an implant for a documented medical reason (e.g., implant rupture, leakage).

Copies of CDRH's letter denying approval of the application for use of the device in augmenting the healthy female breast and the summary of safety and effectiveness data on which CDRH's decision is based are on file with the Dockets Management Branch (address above) and are available upon request from that office. Requests should be identified with the name of the device and docket number found in brackets in the heading of this document.

Dated: September 28, 1992.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 92-23990 Filed 10-2-92; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

Hearing: Reconsideration of Disapproval of Maryland State Plan Amendment (SPA)

AGENCY: Health Care Financing Administration, HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on October 27, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania to reconsider our decision to disapprove Maryland SPA 92-22.

CLOSING DATE: Requests to participate in the hearing as a party must be received by the Docket Clerk by October 20, 1992.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 1849 Gwynn Oak Avenue, Meadowwood East Building, Groundfloor, Baltimore, Maryland 21207, Telephone: (410) 597-3013.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove Maryland State plan amendment (SPA) number 92-22.

Section 1116 of the Social Security Act (the Act) and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. The Health Care Financing Administration (HCFA) is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Office within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Maryland submitted SPA 92-22 to establish the State's compliance with section 1926 of the Act. Maryland SPA 92-22 contains data alleging that at least 50 percent of obstetrical and pediatric (Ob/Ped) practitioners are full Medicaid participants.

The issue in this matter is whether the plan amendment meets the statutory provisions of section 1926 of the Act and thus also complies with section 1902(a)(30)(A) of the Act.

Section 1926 of the Act as added by section 6402 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, requires that by no later than April 1 of each year (beginning in 1990), States submit plan amendments specifying their payment rates for Ob/Ped practitioner services. States must provide specific information to document that those payment rates are sufficient to enlist enough providers such that Ob/Ped services are available to Medicaid recipients at least to the extent that such services are available to the general population in the geographic area (section 1902(a)(30)(A) of the Act). In addition, States must submit data to document that payments to health maintenance organizations take into account payment rates for fee-for-service Ob/Ped services.

HCFA has determined, on the basis of the statute and Congressional intent, that for Ob/Ped rate SPAs to be approvable under section 1926 of the Act, they must include the following:

1. Payment rates for July 1, 1991 through June 30, 1992 for Ob/Ped services, specified by procedures;

2. Data that document that payment rates for Ob/Ped services are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area; and,

3. Data that document that payment rates to health maintenance organizations under section 1903(m) of the Act take into account the payment rates specified in number 1 above.

HCFA has also developed several guidelines, that if met by the State, would evidence that the State meets the statutory requirements of section 1926 of the Act. These guidelines are set forth in a State Medicaid Manual (SMM) revision dated March 26, 1990.

On June 30, 1991, Maryland's initial SPA 91-20, concerning Ob/Ped payment rates, was disapproved because the data provided by the State were insufficient to document that the statutory requirements were met. On April 2, 1992, Maryland submitted its revised Ob/Ped SPA as required by the last sentence of section 1926(a)(3) of the Act. The new amendment was numbered Maryland 92-22. HCFA reviewed Maryland 92-22 and formally requested additional information needed for a final decision. On April 30, 1992, the State responded to the request for additional information.

Based upon the data submitted, HCFA has determined that Maryland's amendment does not comply with the statutory requirements of section 1926 of the Act, and, thus also does not comply with section 1902(a)(3)(A). The State has demonstrated adequacy of access utilizing guideline 1 from the March 26, 1990 SMM issuance, which permits the State to document its compliance with the statute by submitting data showing that at least 50 percent of On/Ped practitioners are full Medicaid participants or that Medicaid participation is at the same rate as Blue Shield participation. However, HCFA believes Maryland's submittal is incomplete because the State has not submitted with SPA 92-22 its Ob/Ped fee-for-service payment rates for the period July 1, 1991 through June 30, 1992. The State's fee schedule submitted for SPA 91-20 was not acceptable because the schedule rates were the result of the State's Provider Tax Bill, and were not the rates that were paid to the providers. The State has not submitted an alternate fee schedule for SPA 92-22.

The State argues that sections 1926 (a)(1) and (a)(2) of the Act provide that a State must submit to the Secretary a plan amendment that specifies "the payment rates to be used for such services under the plan in the succeeding period." The State also argues that it submitted its payment rates to HCFA for Ob/Ped services and have therefore met this requirement. The payment rates were published in the Code of Maryland Regulations and are alleged to be the "actual" rates paid to the provider for these services. The State further argues that the fact that a tax is withheld from the provider payments does not mean the State has failed to comply with section 1926 of the Act. The rates in question were submitted with SPA 91-20 and were disapproved. No rates have been submitted with SPA 92-22. Since the rates submitted with 91-20 were disapproved and no new rates were submitted with SPA 92-22, HCFA believes the State has not met the requirements of sections 1902(a)(30)(A) and 1926 of the Act.

The notice of Maryland announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Nelson Sabatini,

Secretary, Department of Health and Mental Hygiene, 201 West Preston Street, 5th Floor, Baltimore, Maryland 21201

Dear Mr. Sabatini: I am responding to your request for reconsideration of the decision to disapprove Maryland State Plan Amendment (SPA) 92–22. Maryland submitted SPA 92–22 to establish the State's compliance with section 1926 of the Social Security Act (the Act). Maryland SPA 92–22 contains data alleging that at least 50 percent of obstetrical and pediatric (Ob/Ped) practitioners are full Medicaid participants.

The issue in this matter is whether the plan amendment meets the statutory requirements of section 1926 of the Act and thus, also complies with section 1902(a)(30)(A) of the Act. Section 1926 of the Act as added by section 6402 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239, requires that by no later than April 1 of each year (beginning in 1990), States submit plan amendments specifying their payment rates for Ob/Ped practitioner services. States also must provide specific information to document that those payment rates are sufficient to enlist enough providers such that Ob/Ped services are available to Medicaid recipients at least to the extent that such services are available to the general population in the geographic area (section 1902(a)(30)(A) of the Act). In addition, the States must submit data to document that payments to the health maintenance organizations take into account payment rates for fee-for-service Ob/Ped services.

I am scheduling a hearing on your request for reconsideration to be held on October 27, 1992 at 10 a.m. in room 3030, 3535 Market Street, Philadelphia, Pennsylvania. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (410) 597–3013.

Sincerely,

William Toby, Jr.,

Acting Deputy Administrator.

Authority: Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18.

Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program.

Dated: September 11, 1992.

William Toby, Jr.,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 92–24036 Filed 10–2–92; 8:45 am]

BILLING CODE 4120–03–M

Health Resources and Services Administration

Program Announcement and Proposed Funding Preference and Priority for Cooperative Agreements for Area Health Education Centers Program for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications are now being accepted for fiscal year 1993 Cooperative Agreements for the Area Health Education Centers (AHEC) Program under the authority of section 781(a)(1), title VII of the Public Health Service Act, as amended by the Health Professions Reauthorization Act of 1988, title VI of Pub. L. 100–607. Comments are invited on the proposed funding preference and priority stated below.

This program announcement is subject to reauthorization of this legislative authority and to the appropriation of funds. The Administration's budget request for FY 1993 does not include funding for this program. Applicants are advised that this program announcement is a contingency action being taken to assure that should authority and funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Previous Funding Experience

Previous funding experience is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program.

In FY 1992, HRSA reviewed 11 applications for Cooperative Agreements for the Area Health Education Centers Program. Of those applications, 27 percent were approved and 73 percent were not recommended for further consideration. Three projects, or 27 percent of the applications received, were funded.

In FY 1991, HRSA reviewed 22 applications. Of those applications, 73 percent were approved and 27 percent were not recommended for further consideration. Sixteen projects, or 73 percent of the applications received, were funded.

Purpose

Section 781(a)(1) authorizes Federal assistance to schools of medicine and osteopathic medicine which have cooperative arrangements with one or more public or nonprofit private area health education centers for the planning, development and operation of area health education center programs.

To be eligible to receive support for an area health education center cooperative agreement, the applicant must be a public or nonprofit private accredited school of medicine or osteopathic medicine or consortium of such schools, or the parent institution on behalf of such school(s).

Applicants may request up to 3 years of support with the expectation that AHECs planned and developed in years 1 and 2 would be fully operational no later than the 3rd year. The period of Federal support should not exceed 9 years for an area health education center program and 6 years for an area health education center.

The Health Professions Reauthorization Act of 1988, title VI of Public Law 100–607, amended the authority for the area health education center program by:

1. Providing for a waiver, under specified circumstances, of the provision now contained in section 781(a)(2)(C) prohibiting an AHEC from being a school of medicine or osteopathic medicine, the parent institution of such a school, or a branch campus or other subunit of a school of medicine or osteopathic medicine or its parent institution, or a consortium of such entities. The waiver of this provision applies to an AHEC having, at the time of initial application for support, an operating program supported by appropriations of a State legislature as well as local resources;

2. Reducing the minimum number of individuals enrolled in first-year positions in a rotating osteopathic internship or a medical residency training program in family medicine, general internal medicine, or general pediatrics from six individuals to four; and

3. Revising the requirement that each AHEC shall "conduct interdisciplinary training and practice involving physicians and other health personnel including, where practicable, physician assistants and nurse practitioners" to add "and nurse midwives."

To receive support, programs must meet the requirements of the regulations as set forth in 42 CFR part 57, subpart MM.

Degree of Federal Involvement in the Planning, Development and Operation of Area Health Education Centers Program

The Bureau of Health Professions, within the Health Resources and Services Administration, has substantial programmatic involvement in the

planning, development, and administration of the AHEC projects by:

1. Reviewing and approving plans upon which continuation of the cooperative agreement is contingent in order to permit appropriate direction and redirection of activities;

2. Reviewing and approving all contracts and agreements among recipient medical or osteopathic schools, other health professions schools and community-based centers;

3. Participating with project staff in the development of funding projections;

4. Developing, with project staff, individual project data collection systems and procedures; and

5. Participating with project staff in the design of project evaluation protocols and methodologies.

Matching Funds Requirement

Section 781(e)(2) of the Act requires that not more than 75 percent of total operating funds of a program in any year shall be provided by the Secretary.

National Health Objectives for the Year 2000

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 for setting priority areas. This program is related to the priority area of Educational and Community-Based Programs. 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 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project adequately provides for the program requirements set forth in 42 CFR 57.3804;
2. The capability of the applicant to carry out the proposed project; and
3. The extent of the need of the area to be served by the area health education centers.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

The following funding preference and funding priorities were established in FY 1989 after public comment (at 54 FR 189) dated January 4, 1989. Funding Priority No. 2, was established in FY 1989 as a special consideration and extended in FY 1990 on November 21, 1989, (54 FR 48156) and established as a funding priority in FY 1992, after public comment (57 FR 6229) dated February 21 1992. These funding factors are being extended in FY 1993.

Established Funding Preference for Fiscal Year 1993

In making awards for fiscal year 1993, a funding preference will be given to approved competing continuation applications under section 781(a)(1).

Established Funding Priorities for Fiscal Year 1993

A funding priority will be given to the following:

1. Applications which demonstrate substantial clinical training (a student or resident clerkship or preceptorship of 4 to 8 weeks) in one or more PHS Act, section 332 Health Professional Shortage Area(s) and/or a PHS Act, section 329 Migrant Health Center, a PHS Act, section 330 Community Health Center, or a State designated clinic/center serving an underserved population. Section 332 establishes criteria to designated geographic areas, population groups, medical facilities, and other public facilities in the States as Health Professional Shortage Areas. Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers. Section 330 authorizes support for community health care services to medically underserved populations.

2. Applications proposing centers that will serve Health Professional Shortage Areas with a greater proportion of American Indian/Alaskan Natives, Asian/Pacific Islanders, Blacks, and/or Hispanics than exists in the general population in the United States.

Proposed Funding Preference for Fiscal Year 1993

A second funding preference is proposed:

In making awards for fiscal year 1993, a funding preference will be given to approved competing new application under section 781(a)(1) which propose to plan, develop and implement an AHEC program in a State where there is no existing AHEC program. These approved applications will be funded after approved competing continuation applications.

The overall goal of the AHEC Program is to develop a national network of State related AHEC Programs which can effectively address the supply and distribution issues related to health professions education. In times of limited dollars, it is reasonable to allocate funds to initiate new AHEC programs in states where there are no other AHEC programs. This is particularly true when there are States which still experience severe manpower shortages. Such a preference will also encourage State institutions to work together and plan AHEC strategies which are more consonant to overall State goals rather than segmenting planning through compartmented Federally funded initiatives. It will also allocate national resources so that no State will get a disproportionate share of scarce resources at the expense of States getting no resource support.

Proposed Funding Priority for FY 1993

It is proposed that a funding priority be given to applications which demonstrate the development or implementation of information dissemination systems with the capability to provide state-of-the-art information on clinical modalities, protocols, and other guidelines which can address emerging health issues such as substance abuse, clinical preventive services, infant mortality and geriatrics for primary care practitioners, including National Health Service Corps personnel.

This funding priority focuses on creating a network and infrastructure to transmit the most current information to practicing health professionals.

Additional Information

Interested persons are invited to comment on the proposed funding preference and priority. All comments received on or before November 4, 1992 will be considered before the final funding preference and priority are established. No funds will be allocated or final selections made until a final notice is published stating when the final funding preference and priority will be applied. Written comments should be addressed to:

Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C–25, Parklawn Building, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Ms. Diane Murray, Grants Management Specialist (U76), Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 8C–26, Rockville, Maryland 20857, Telephone: (301) 443–6857, FAX: (301) 443–6343.

Completed applications should be forwarded to the Grants Management Office at the above address.

If additional programmatic information is needed, please contact: Ms. Cherry Tsutsumida, Chief, Multidisciplinary Centers and Programs Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–5, Rockville, Maryland 20857, Telephone: (301) 443–6817, FAX: (301) 443–8890.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instruction and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline date for receipt of applications is November 30, 1992. Applications should be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date, or

(2) Postmarked on or before the deadline and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.824 in the *Catalog of Federal Domestic Assistance.* It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: September 9, 1992.

Robert G. Harmon,

Administrator.

[FR Doc. 92–24032 Filed 10–2–92; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting, National Advisory Board for Arthritis and Musculoskeletal and Skin Diseases

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Advisory Board for Arthritis and Musculoskeletal and Skin Diseases on October 19, 1992. The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 20202. The Board will meet October 19, 8:30 a.m. to approximately 3:30 p.m.

The meeting, which will be open to the public, is being held to discuss the Board's activities and to continue evaluation of the National effort to combat arthritis and musculoskeletal and skin diseases. Attendance by the public will be limited to space available.

Ms. Geraldine B. Pollen, Executive Director, National Advisory Board for Arthritis and Musculoskeletal and Skin Diseases, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting her office.

Dated: September 24, 1992.

Susan K. Feldman,

NIH Committee Management Officer.

[FR Doc. 92–23985 Filed 10–2–92; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service, Office of the Assistant Secretary for Health

Public Law 102–154, the Department of the Interior and Related Agencies Appropriations, Fiscal Year 1992 Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority from the Secretary of Health and Human Services to the Assistant Secretary for Health dated September 10, 1992, the Assistant Secretary for Health delegated to the Director, Indian Health Service, without authority to redelegate, all authority under Public Law 102–154, "The Department of the Interior and Related Agencies Appropriations Act, Fiscal Year 1992", as amended hereafter, to accept ownership of the buildings offered at no cost by the Standing Rock Sioux Tribe for use solely as the Aberdeen Area Youth Regional Treatment Center. This delegation excluded the authority to promulgate regulations, to submit reports to Congress, to establish advisory committees or national commissions, and to appoint members to such committees or commissions.

This delegation was effective September 23, 1992.

James O. Mason,

Assistant Secretary for Health.

[FR Doc. 92–24034 Filed 10–2–92; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM010–4340–01–ADVB/G910G20108]

District Advisory Council Meeting

AGENCY: Bureau of Land Management.

ACTION: Notice of Albuquerque District Advisory Council Meeting.

SUMMARY: The BLM Albuquerque District Advisory Council will meet November 5, and 6, 1992, in the Albuquerque District Office located at 435 Montano Blvd. N.E., Albuquerque, New Mexico. The meeting will begin at 10 a.m. on Thursday, the 5th and meet until 4 p.m. that day with a lunch break from 12 noon to 1:30 p.m.

Topics on Thursday's agenda will include the role of the Council, the proposed BLM reorganization, updates on the Taos, Rio Puerco and Farmington resource areas, an overview of the upper Rio Puerco watershed, and the animal damage control program.

On Friday, November 6th, the Council will meet at the BLM office in

Albuquerque at 8:30 a.m. and proceed on a tour of the upper Rio Puerco watershed area, returning to the office by 3:30 p.m.

The public is invited to attend all or part of the meeting, but transportation on the field trip will not be provided. Persons wishing to address the Council should contact Charna Lefton, Public Affairs Specialist, 435 Montano Blvd. N.E., Albuquerque, NM, 87107, (505) 761–8700.

Dated: September 30, 1992.

Robert T. Dale,

District Manager.

[FR Doc. 92–24267 Filed 10–2–92; 8:45 am]

BILLING CODE 4310–FB–M

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the White River Spinedace (Lepidomeda albivallis) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the endangered White River spinedace (*Lepidomeda albivallis*). This species historically occupied the upper White River and six springs systems in Nye and White Pine Counties, Nevada. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before December 4, 1992 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Reno Field Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C–125, Reno, Nevada, 89502, (Phone: 702–784–5870) or Assistant Regional Director, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE 11th Avenue, Portland, Oregon, 97232–4181 (Phone: 503–231–6131). Written comments and materials regarding the plan should be addressed to Mr. David L. Harlow, Field Supervisor, at the above Reno, Nevada address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada address.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Withers at the above Reno, Nevada address (telephone 702–784–5227).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

White River spinedace are endemic to the upper White River Valley in Nye and White Pine Counties, Nevada. The principle causes of decline for this species are habitat modification and nonnative fishes introduction. Recovery efforts will focus on maintaining and enhancing the one remaining population by increasing the extent of suitable habitat, eliminating threats from nonnative fish species, and reestablishing populations in historic habitats. Most of the historic habitat is currently under private ownership. The remaining population of White River spinedace occupies North Flag Spring, which is within the Nevada Department of Wildlife's Wayne E. Kirch Wildlife Management Area.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 25, 1992.

William E. Martin,

Acting Regional Director.

[FR Doc. 92–24042 Filed 10–2–92; 8:45 am]

BILLING CODE 4310–55–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029–0024—, Washington, DC 20503, telephone 202–395–7340.

Title: Procedures and Criteria for Approval or Disapproval of State Program Submissions 30 CFR part 732.

OMB Approval Number: 1029–0024.

Abstract: The regulations require a State to report to the Office of Surface Mining Reclamation and Enforcement (OSM) the information collected by the State and also requires notification to be made by the State of any changes to the State program. The information submitted by the State is used by OSM in evaluating whether the State is meeting the provisions of the approved State program.

Bureau Form Number: None.

Frequency: Quarterly and on occasion.

Description of Respondents: State Regulatory Authorities.

Estimated Completion Time: 9 hours.

Annual Responses: 120.

Annual Burden Hours: 1,080.

Bureau Clearance Officer: John A. Trelease, 202–343–1475.

Dated: August 25, 1992.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92–24038 Filed 10–02–92; 8:45 am]

BILLING CODE 4310–05–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related form may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the bureau clearance officer and to the Office of Management and Budget, paperwork Reduction Project (1029–0049), Washington, DC 20503, telephone 202–395–7340.

Title: Special Permanent Program Performance Standards—Operations in Alluvial Valley Floors.
OMB Approval Number: 1029–0049.
Abstract: This section requires the permittee to install, maintain and operate a monitoring system in order to provide specific protection for alluvial valley floors. This information is needed to ensure that the agricultural utility and production of the alluvial valley floor is maintained.
Bureau Form Number: None.
Frequency: Annually.
Description of Respondents: Coal Mining Operators.
Estimated Completion Time: 50 hours.
Annual Responses: 10.
Annual Burden Hours: 500.
Bureau Clearance Officer: John A. Trelease, 202–343–1475.

Dated: August 25, 1992.

Andrew F. DeVito,

Acting Chief, Division of Technical Services.

[FR Doc. 92–24037 Filed 10–2–92; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–331]

Commission Decision to Vacate an Initial Determination Suspending the Investigation

In the Matter of certain microcomputer memory controllers, components thereof and products containing same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to vacate the initial determination (ID) issued by the presiding administrative law judge (ALJ) on July 9, 1992, suspending the above-captioned investigation.

ADDRESSES: Copies of the ID, the Commission's order, and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3104. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

SUPPLEMENTARY INFORMATION: On September 12, 1991, Chips and Technologies, Inc. ("Chips") of San Jose, California filed a complaint with the Commission alleging violations of section 337 of the Tariff Act of 1930 in the importation and sale of certain microcomputer memory controllers covered by claims of four U.S. patents owned by Chips. The Commission instituted an investigation of Chips' complaint in October 17, 1991. 56 FR 52058. Respondents OPTi Computer, Inc. (OPTi) of Santa Clara, California, and Elite Microelectronics, Inc. (Elite) of San Jose, California remain in the investigation.

On June 23, 1992, Chips moved to suspend the investigation in favor of concurrent litigation in the U.S. District Court for the Northern District of California between Chips and OPTi, *Chips and Technologies, Inc.* v. *OPTi Computer, Inc.*, Civil Action No. C–91–20349–SW (PVT). The Commission investigative attorney (IA) supported Chips' motion. OPTi and Elite opposed the motion. While the motion was pending before the ALJ, the district court trial date was rescheduled for a later date. On July 9, 1991, the ALJ granted Chips' motion and issued an ID (Order No. 25) suspending the investigation. No petitions for review of the ID were received.

On August 10, 1992, the Commission determined to review the ID because it deemed the basis for suspension given in the ID, *viz.*, avoidance of duplicative costs, contrary to Commission precedent and inappropriate in view of statutory language making section 337 available "in addition to" other relief, 19 U.S.C. 1337(a). Since ordering review, the concurrent district court litigation has been terminated by consent judgment. In the absence of concurrent court or agency proceedings, the Commission determined that it had no authority to suspend this investigation under section 337.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and sections 210.53(h), 210.55, and 210.56(c) of the Commission's Interim Rules of Practice and Procedure (19 CFR 210.53(h), 210.55, and 210.56(c)).

Issued: September 29, 1992.

By order of the Commission.

Paul R. Bardos,

Acting Secretary,

[FR Doc. 92–24028 Filed 10–2–92; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement.
The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.
Whether small businesses or organizations are affected.
An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ({202} 219–9171). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, room 3001, Washington, DC 20503 ({202} 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

New

Occupational Safety and Health Administration.
Survey on Ergonomic Hazards and Ergonomic Hazards Prevention Programs.
Non-recurring.
Business or other for-profit; Small businesses or organizations.

Information collection	Number of respondents	Average time per response	Total burden hours
Respondents without ergonomic programs in place	2,513	40 minutes	1,675 hours.
Respondents with ergonomic programs in place	1,237	1 hour	1,237 hours.
Site Visits	100	8 hours	800 hours.
Total	3,850		3,712 hours.

Description

The office of Regulatory Analysis of the Occupational Safety and Health Administration (OSHA) is collecting data to evaluate current levels of employee exposure to ergonomic hazards and to ascertain the extent to which establishments have established ergonomic efforts to monitor and mitigate the exposure to these hazards. OSHA is attempting to (1) identify those occupations and associated processes in which job activities pose significant ergonomic risks to employees, (2) collect information regarding the incidence and nature of injuries and illnesses associated with ergonomic exposures, (3) develop estimates of the number of establishments that have instituted ergonomic efforts to control ergonomic hazards, and (4) evaluate the characteristics of such efforts.

Necessity of Data Collection

In 1990 OSHA published voluntary guidelines for the design and implementation of ergonomic programs in the meatpacking industry. These guidelines were instituted in response to the high rate of ergonomic-related disorders reported among meatpacking employees. It has been recognized, however, that such injuries and illnesses constitute a significant share of reported injuries and illnesses in other industries. According to the Bureau of Labor Statistics, work-place illnesses associated with repeated trauma (e.g., conditions due to repeated motion, pressure. or vibration, such as carpal tunnel syndrome) made up approximately 56 percent (185,400) of all illness cases in 1990. In 1981 and 1984, these disorders accounted for only 18 and 28 percent, respectively, of all recordable illnesses. Furthermore, the rate of reported ergonomic-related cases has been increasing relative to the overall rate of injuries and illnesses. Between 1989 and 1990, repeated traumas constituted nearly 80 percent of the increase of 39,000 cases. During 1990, the industries with the 25 highest reported illness incidence rates of disorders associated with repeated trauma were in manufacturing.

There is growing recognition of the seriousness of cumulative trauma disorders, ergonomic disorders and the social costs imposed by such disorders. However, no explicit regulatory protection against ergonomic risks is provided for employees. OSHA, therefore, is interested in developing a database that will provide sufficient information to determine the effectiveness of existing efforts and the extent of ergonomic hazards. Ergonomic efforts cover workplace risks associated with repetitive motion and other ergonomic hazards which occur in the spectrum of industries regulated by OSHA. Program information collected would focus on five areas: (1) Trend analysis or ergonomic disorders due to exposure to ergonomic hazards and their symptoms; (2) systematic exposure analysis; (3) methods for ergonomic hazard prevention and control; (4) ergonomic health management; and (5) ergonomic training and education.

Finding technological solutions to the problems posed by ergonomic hazards may be one of the most significant occupational safety and health issues of this decade. The range of improvements is extremely broad, depending not only on industry and occupation, but also on the specific establishment, equipment in place and in some cases, the capabilities of the individual employee. Some general categories of solutions may include assembly line or work station modifications, administrative controls to limit the amount of time that a worker is exposed to the hazards, and changes in work practices such as improving lifting techniques. This broad range of possible actions necessitates that many individual situations be identified, primarily through the survey and through plant visits.

In order to assess the feasibility of initiatives designed to increase worker protection against ergonomic hazards, OSHA requires a database that describes current exposure levels to ergonomic hazards and characterizes current industry practices regarding the identification, monitoring, and control of such hazards. Thus, in accordance with Section 6 of the OSH Act, OSHA is planning to gather statistically accurate information regarding the incidence of exposure to ergonomic hazards and the extent and effectiveness of implemented health and safety programs to mitigate these hazards.

In addition to a statistical survey, OSHA is also planning to conduct up to one hundred in-depth site visits to establishments with on-going ergonomic efforts. They will be selected to obtain adequate data representation of the different types of ergonomic efforts currently used by employers. These site

visits will permit the collection of additional detailed information regarding the characteristics, practices, costs, and benefits associated with these ergonomic efforts. This information will be used to validate and supplement the survey findings.

A previous survey by OSHA covering medical surveillance and exposure assessment programs provided initial estimates of the extent to which establishments currently have ergonomic efforts in place. The present data collection effort seeks to expand this data base by collecting information on the types and extent of exposure to ergonomic hazards and on the detailed characteristics of the various components of existing ergonomic efforts. This survey will also encompass industries not covered in the previous survey such as forestry, fishing and hunting, as in scope industries.

A critical element of an ergonomics effort is the set of criteria by which ergonomic hazards would be judged to exist. The survey will, therefore, collect information regarding the extent to which specific occupations in each industry are exposed to ergonomic hazards. Further, the survey collects data on the incidence and nature of ergonomic disorders within each occupational class at risk to ergonomic hazards.

The extent and distribution of ergonomic hazards by SIC will be determined by collecting data on the number of employees in occupations engaged in activities which are likely to involve exposure to ergonomic hazards. A list of SIC specific occupations in which workers are most likely to be exposed to ergonomic hazards has been developed. Information will be requested about the processes associated with identified occupations. An SIC specific prompt list was developed by integrating the occupation list with the process list developed and tested under several OSHA surveys including personal protective equipment and medical surveillance.

Ergonomic efforts would most likely include provisions for the implementation of procedures to address ergonomic hazards. A successful program for control or ergonomic hazards must include provisions for identification, control, and monitoring of those hazards. Therefore, for those establishments that have developed ergonomic efforts, the survey will elicit information regarding the detailed characteristics of such efforts.

First, the survey will examine characteristics of efforts related to the assessment of ergonomic hazards and the associated methods used to identify such hazards in the workplace. These methods include workplace or ergonomic job hazard analyses, trend analyses, and other hazard assessment techniques.

Second, the survey will seek information regarding hazard prevention and control measures which employers have instituted in order to mitigate ergonomic risks. Such measures include appropriate engineering and work practice controls, physical devices (gloves, braces, etc.), and administrative controls. This information will include the specific nature of such controls, whether such controls reduce or eliminate employee exposure to ergonomic hazards and the associated costs to the employer.

Third, the survey will investigate the characteristics of procedures for ergonomic health management. Proper medical management is necessary to eliminate or materially reduce the risk of developing an ergonomic disorder. This can be accomplished through early identification and treatment and through the development of surveillance procedures. The questions under this topic address protocols for health surveillance, medical removal, and job re-entry after medical removal or disability leave.

Fourth, the survey will seek information about employer training and education efforts to assist employees and supervisors in the identification and prevention of ergonomic injuries and illnesses. The purpose of training and education is to ensure that employees are sufficiently informed about the ergonomic hazards to which they may be exposed and, thus, are able to participate actively in their own protection. Finally, the survey will elicit information regarding the methods used by establishments to audit the effectiveness of their ergonomic efforts and the extent to which these efforts have been successful in achieving their goals.

In order to develop corroborative information regarding the incidence of disorders related to ergonomic stressors, OSHA will collect copies of each OSHA Form 200 injury and illness log maintained by establishments participating and agreeing to submit such forms during the survey. Ergonomic disorders on these logs will be identified and coded to develop a data base of specific cumulative trauma disorders and back injuries. These data will then be correlated with survey results to determine relationships between ergonomic safety practices and the incidence of ergonomic injuries and illnesses. This date base will also provide information on the incidence of specific types of ergonomic disorders. Currently, only aggregate incidence rates are available from published injury and illness statistics.

Site visit information will be folded into the analysis of the survey and OSHA Form 200s to provide a realistic aspect on the statistical data.

Use of the Information

OSHA will use the data gathered through this survey to assess the extent of workplace exposure to ergonomic hazards in the range of industries and activities falling within OSHA's jurisdiction. In addition, the information will permit an assessment of current industry practices regarding mitigation of ergonomic hazards. The information will be used in support of an effort by OSHA to evaluate the extent of occupational ergonomic disorders and the extent and effectiveness of existing occupational ergonomic efforts. This will eventually allow the consideration of the effectiveness and feasibility of a variety of approaches for providing workplace protection against ergonomic hazards. The survey will provide a unique data base characterizing exposure levels associated with specific occupational classes of employees as well as the range of ergonomic efforts instituted by establishments in different industries.

The questions in the survey instrument are designed to gather the needed information in a straightforward manner. The discussion below describes in detail the data uses associated with each category of questions contained in the survey instrument.

- Section I—Background Information

The first elements of the survey instrument will provide the respondent with a general description of the nature of the survey. OSHA will collect information regarding the SIC code of the respondent, the total number of employees, and employment in specific activity areas (production, administrative, sales, etc). The survey also requests data on the activities performed at the establishment and the number of employees in each activity. If the respondent is not in the SIC code expected (based on the Dun and Bradstreet (D&B) industry list), the correct SIC code will be identified. Employment data from D&B will also be validated.

- Section II—Workplace Analysis

Questions in this section will establish whether the respondent has implemented any effort to identify

occupations which present ergonomic hazards at his or her facility. Respondents who have made no effort to establish whether they have ergonomic disorders among their employees will be administered questions designed to identify the existence and extent of ergonomic hazards, if any, in the establishment.

Respondents who have undertaken workplace analysis efforts will be administered questions which address the nature of the workplace analysis and the extent and type of ergonomic hazard identified.

All respondents will be queried regarding the existence of specific ergonomic stressors, the incidence of reported ergonomic disorders or symptoms, the body parts afflicted, and the specific traumas reported. This information, together with total employment in the classification, will be elicited for each ergonomically high-risk occupational classification present at the facility. In addition respondents will be asked to identify the processes associated with those occupations. Respondents will then be asked to supply their OSHA Form 200 injury and illness logs.

• Section III—Ergonomic Job Hazard Analysis

This section includes questions on whether the respondent has undertaken specific job analysis to identify ergonomic stressors present at the employee workstation and to characterize the duration and frequency of the exposure. Those who have undertaken such analyses are queried regarding the nature of the analyses and the personnel involved. Respondents are then asked to identify the occupations that were ergonomically analyzed.

• Section IV—Workplace Modifications

Questions in this section determine whether respondents have implemented workplace modifications to mitigate ergonomic hazards for those occupational classifications where ergonomic hazards were found to exist. For those respondents who have conducted workplace modifications, the survey instrument asks questions about whether controls have been implemented, the specific type and characteristics of the control measures, and the effectiveness of such controls.

• Section V—Ergonomic Health Management

Section V contains questions regarding the establishment's ergonomic health management efforts. These questions cover the existence and characteristics of a formal health program, the type and characteristics of a formal health program, the type and characteristics of health care available to employees, elements of health surveillance policies, and medical removal and re-entry procedures for employees with ergonomic disorders.

• Section VI—Ergonomic Training and Education

This section of the survey instrument contains questions regarding the training and education component of ergonomic efforts. The respondent is queried about who provides the training, which occupational categories receive such training, and the topics covered in such training.

• Section VII—Effectiveness of the Ergonomic Program

This final section of the survey contains questions for respondents with ergonomic efforts and addresses the (a) methods used to evaluate the effectiveness of ergonomic efforts, and (b) the overall effectiveness of ergonomic efforts in terms of such changes as injury/illness rates, workers' compensation and insurance costs, and worker productivity. Respondents are asked to provide, within numerical ranges provided by the interviewer, quantitative estimates of the effectiveness of their programs in these areas.

Use of Technology to Reduce Burden

The survey instrument for this survey will be administered by telephone thought the use of a computer assisted telephone interviewing (CATI) system. A telephone survey has several advantages. The response rate is consistently better than for mail surveys, and the cost and time for completing responses is reduced. With a CATI system, responses are entered directly into the computer, eliminating the need for separate recording and coding operations. Also, the CATI computer program ensures that the proper sequence of questions is followed automatically. For example, if the response to one question suggests that a follow up question can be skipped, the computer will automatically move on. The interviewer simply reads the questions as they appear on the screen. In addition, the use of CATI allows the interviewer to omit questions that are not relevant for the particular establishment being questioned. This system produces a smooth flowing interview and eliminates any pauses or delays by the interviewer to enter responses by hand or to find the next question. In essence, the computer produces a questionnaire tailored to each establishment.

Efforts to Avoid Duplication

An extensive literature review on the subject areas to be addressed by this survey effort has been conducted by OSHA. This research has led to the conclusion that there is currently no systematic, comprehensive, and statistically accurate data base on levels of exposure to ergonomic hazards, the incidence of ergonomic related disorders, or the number and characteristics of ergonomic efforts designed to identify, monitor or mitigate ergonomic hazards.

For further information contact Kathy Condit at the Office of Regulatory Analysis, (202) 219–5916.

Signed at Washington, DC this 29 day of September 1992.

Kenneh A. Mills.

Departmental Clearance Officer.

[FR Doc. 92–23995 Filed 10–2–92; 8:45 am]

BILLING CODE 4510–26–M

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meetings and Agenda

The regular Fall meetings of the Board and Committees of the Business Research Advisory Council will be held on October 28 and 29, 1992. All of the meetings will be held in the Postal Square Building, 2 Massachusetts Avenue, N.E., Washington, D.C.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, October 28, 1992

10 a.m.—Committee on Compensation and Working Conditions—Postal Square Building Conference Center.

1. Results from the health care claims model.
2. The new locality pay and benefits bulletin.
3. Compensation cost levels: a comparison between state and local government and private industry.
4. The training research project with the Bureau's Labor Research Advisory Council (LRAC).

1 p.m.—Committee on Employment and Unemployment, Postal Square Building Conference Center.

1. Overview and budget briefing.

2. Understanding the June 1992 benchmark revision.
3. Developments in the Single Wage Report Initiative.
4. Implementation and application of the Business Establishment List (BEL).
5. Standard Industrial Classification 1997: economic classification policy issues.
6. Testing the new Current Population Survey (CPS) questionnaire.
7. First news release on employment in foreign-owned establishments.
8. Other business.

3:15 p.m.—Committee on Economic Growth, Postal Square Building Conference Center.

1. Evaluations of 1990 projections.
a. Labor force.
b. Economic and industry.
c. Occupations.
2. Discussion of assumptions to be used for new projections—1992–2005.

Thursday, October 29, 1992

9 a.m.—Committee on Prices, Postal Square Building Conference Center.

1. Status of work on the Consumer Price Index, Producer Price Index, and International Price Indexes Programs.
2. Other business.

9 a.m.—Committee on Productivity-Foreign Labor, Postal Square Building Conference Center.

1. Election of committee vice-chairperson.
2. Progress report on international comparisons of alternative unemployment indicators.
3. Update on BLS technical cooperation with Central and East European and Mexican statistical offices.
4. Study of productivity and changes in work force composition.
5. Brief update on status of Bureau of Economic Analysis work on real gross product originating.

1 p.m.—Board of the Business Research Advisory Council, Postal Square Building Conference Center.

1. Chairperson's remarks.
2. Deputy Commissioner's remarks.
3. Committee reports.
a. Committee on Compensation and Working Conditions.
b. Committee on Productivity-Foreign Labor.
c. Committee on Employment and Unemployment.
d. Committee on Price Indexes.
e. Committee on Economic Growth.
4. Other business.
5. Chairperson's closing remarks.

The meetings are open to the public. Persons planning to attend these meetings as observers may obtain more information from Constance B. DiCesare, Liaison, Business Research Advisory Council, at (202) 606–5886.

Signed at Washington, DC the 29th day of September 1992.

William G. Barron, Jr.,

Deputy Commissioner.

[FR Doc. 92–24081 Filed 10–2–92; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–27,614]

Brown Shoe Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 17, 1992 in response to a worker petition which was filed on August 17, 1992 on behalf of workers at Brown Shoe Company, St. Louis, Missouri.

An active certification covering the petitioning group of workers remains in effect (TA–W–27,570). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 24th day of September, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–24072 Filed 10–2–92; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Centra Leather Goods et al.

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 October 15, 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 October 15, 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 21st day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Centra Leather Goods (workers)	Frederick, OK	09/21/92	09/03/92	27,813	Men's and women's wallets.
Weyerhauser (LSW)	Snoqualmie, WA	09/21/92	09/10/92	27,814	Softwood lumber, silva fiber.
Petroleum Testing Service, Inc. (workers).	Bakersfield, CA	09/21/92	08/31/92	27,815	Oil and gas services.
Lally Manufacturing Corp. (Co.)	New York Mills, NY	09/21/92	09/03/92	27,816	Men's undershirts.
Lally Manufacturing Corp. (Co.)	Port Leyden, NY	09/21/92	09/03/92	27,817	Men's undershirts.
Lally Manufacturing Corp. (Co.)	Adams, NY	09/21/92	09/03/92	27,818	Men's undershirts.
Scotty Construction Co., Inc. (Co.)	Odessa, TX	09/21/92	08/31/92	27,819	Fabrication of oil equipment.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Mitchell Energy Corp. (Co.)	Decator, TX	09/21/92	09/08/92	27,820	Oil and gas exploration, production.
Preferred Tool and Die. (workers)	Comstock Park, MI	09/21/92	08/27/92	27,821	Stamping dies.
Power Conversion, Inc. (workers)	Elmwood Park, NJ	09/21/92	09/21/92	27,822	Lithium batteries.
United Circuits, Inc. (workers)	Dracut, MA	09/21/92	09/04/92	27,823	Printed circuit boards.
Genicom Corp. (workers)	Herkimer, NY	09/21/92	08/28/92	27,824	Electronic printers.
Genicom Corp. (workers)	St. Johnsville, NY	09/21/92	08/28/92	27,825	Electronic printers.
Joseph & Feiss (ACTWU)	Utica, NY	09/21/92	09/16/92	27,826	Men's jackets and suite coats.
Tyco Toys (UFCW)	Moorestown, NJ	09/21/92	09/09/92	27,827	Toys.
Old Hickory Clay Co. (workers)	Hickory, KY	09/21/92	09/11/92	27,828	Clay.
Nerco Minerals (workers)	Portland, OR	09/21/92	09/02/92	27,829	Gold and silver.
Mitchell Energy Corp. (Co.)	Alba, TX	09/21/92	09/08/92	27,830	Oil & gas exploration, production.
Mitchell Energy Corp. (Co.)	Brigeport, TX	09/21/92	09/08/92	27,831	Oil & gas exploration, production.
Homco International, Inc. (workers)	Enid, OK	09/21/92	09/01/92	27,832	Oilfield services.
Homco International Inc. (workers)	Elk City, OK	09/21/92	09/01/92	27,833	Oilfield services.
Homco International, Inc. (workers)	Oklahoma City, OK	09/21/92	09/01/92	27,834	Oilfield services.

[FR Doc. 92-24073 Filed 10-2-92; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-26,830]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance, Cold Spring Granite Co.

TA-W-26,830A	Minnetonka, MN
TA-W-26,830B	St. Cloud, MN
TA-W-26,830C	Milbank, SD
TA-W-26,830D	Marble Falls, TX
TA-W-26,830E	Granite Shoals, TX
TA-W-26,830F	Raymond, CA
TA-W-26,830G	Lake Placid, NY

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 7, 1992, applicable to all workers of Cold Spring Granite Company, Cold Spring, Minnesota. The Notice was published in the **Federal Register** on April 20, 1992 (57 FR 14435).

At the request of the company the Department reviewed the certification for workers of Cold Spring Granite Company. New information from the company shows that worker separations occurred at Minnetonka and St. Cloud, Minnesota which provided substantial support for Cold Spring Granite in Cold Spring, Minnesota. Worker separations at production facilities with a substantial amount of integrated production with Cold Spring Granite are located in Milbank, South Dakota; Marble Falls, Texas; Granite Shoals, Texas; Raymond, California and Lake Placid, New York.

The intent of the Department's certification is to include all workers of Cold Spring Granite who were affected by increased imports of quarry and granite products.

The amended notice applicable to TA-W-26,830 is hereby issued as follows:

All workers of Cold Spring Granite Company, Cold Spring, Minnesota; Minnetonka, Minnesota; St. Cloud, Minnesota; Milbank, South Dakota; Marble Falls, Texas; Granite Shoals, Texas; Raymond, California and Lake Placid, New York who became totally or partially separated from employment on or after January 29, 1991 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of September 1992.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-24074 Filed 10-2-92; 8:45 am]
BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance; Manchester Steel Co. et al.

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 October 15, 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 October 15, 1992.

The petitions filed in this case are available for inspection at 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 14th day of September 1992.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Manchester Steel Co. (workers)	Cleveland, OH	09/14/92	08/27/92	27,794	Flat rolled sheet steel.
Louisiana Offshore Ventures (workers)	Houston, TX	09/14/92	09/01/92	27,795	Oil exploration & production.

APPENDIX—Continued

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Production Pattern (PAM)	Bedford, OH	09/14/92	09/03/92	27,796	Casting patterns.
Vandel Services, Inc. (LLGWU)	Newark, NJ	09/14/92	09/01/92	27,797	Ladies' coats.
Enterra Corp. (workers)	Houston, TX	09/14/92	08/13/92	27,798	Oilfields services.
Oilfield Rental & Fishing (workers)	Houston, TX	09/14/92	08/13/92	27,799	Oilfields services.
Oilfield Rental & Fishing (workers)	Odessa, TX	09/14/92	08/13/92	27,800	Oilfields services.
Spaulding Composites Co. (Co.)	Tonawanda, NY	09/14/92	09/01/92	27,801	Laminates and fibre.
Strategic Exploration, Inc. (Co.)	Houston, TX	09/14/92	08/31/92	27,802	Seismic data, acquisition & production.
Green Veneer, Inc. (workers)	Idanha, ID	09/14/92	08/27/92	27,803	Veneer plywood.
Anadrill/Schlumberger (workers)	Sugar Land, TX	09/14/92	08/28/92	27,804	Oil and gas exploration.
Workman Contracting, Inc. (workers)	Mossyrock, WA	09/14/92	09/02/92	27,805	Harwood & softwood logging.
Grid Systems Corp. (workers)	Fremont, CA	09/14/92	09/01/92	27,806	Computers.
Carter Jasper Co. (Co.)	Jasper, GA	09/14/92	08/31/92	27,807	Canvas shoes.
Specialty Steel Products (workers)	Pittsburgh, PA	09/14/92	08/31/92	27,808	Fabricated furnace hardware.
Western Production Co. (Co.)	Newcastle, WY	09/14/92	08/31/92	27,809	Oil and gas.
Hercules, Inc. (workers)	Radford, VA	09/14/92	08/27/92	27,810	Military propellants.
Quintana Petroleum Corp. (workers)	Lafayette, LA	09/14/92	09/08/92	27,811	Oil and gas.
Conoco, Inc. (Co.)	Houston, TX	09/14/92	08/13/92	27,812	Oil exploration & production.

[FR Doc. 92-24075 Filed 10-2-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,988]

Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance, Signetics Co.

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Revised Determination on Revised Determination on Reconsideration on September 4, 1992, applicable to all workers of the subject firm. The notice was published in the **Federal Register** on September 17, 1992 (57 FR 43030).

The Department is changing the February 24, 1991 impact date set in the Revised Determination on Reconsideration to August 8, 1991 to avoid a coverage overlap with certification TA-W-23,046.

The amended notice applicable to TA-W-26,988 is hereby issued as follows:

All workers of Signetics Company, Orem, Utah who became totally or partially separated from employment on or after August 8, 1991 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-24076 Filed 10-2-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,611]

Termination of Investigation; Sunstrand ATG

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 17, 1992 in response to a worker petition which was filed on August 17, 1992 on behalf of workers at Sunstrand ATG, Denver, Colorado.

An active certification covering the petitioning group of workers remains in effect (TA-W-27,485). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 24th day of September 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-24077 Filed 10-2-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-27,418]

Revised Determination on Reconsideration; Tobin-Hamilton Company, Inc.

On September 11, 1992, the Department issued a notice of affirmative determination regarding application for reconsideration for workers and former workers producing children's athletic shoes at the Tobin-Hamilton Company in Mansfield, Missouri.

Investigation findings show that the Department's focus in its negative determination for the subject workers was only on the box toe and stringing operations at Mansfield and these workers were already certified under petition TA-W-26,759.

The initial investigation findings show that sales and production of children's shoes declined in fiscal year ending in April 92. The findings also show worker separations occurring in 1991 and in the first quarter of 1992.

Findings on reconsideration show that U.S. imports of juvenile nonrubber footwear increased absolutely and relative to domestic shipments in 1991 compared to 1990 and in the first quarter of 1992 compared to the first quarter of 1991.

On reconsideration, the Department conducted a customer survey of Tobin-Hamilton's major customers to determine whether increased imports of children's athletic shoes contributed importantly to worker separations and declines in sales or production at Tobin-Hamilton in Mansfield, Missouri.

The Department's survey of Tobin-Hamilton's major customers shows that they reduced their purchases from Tobin-Hamilton and increased imports of children's athletic shoes in the first nine months of 1992 compared to the same period in 1991.

Conclusion

After careful consideration of the new facts obtained on reconsideration it is concluded that increased imports of articles like or directly competitive with children's athletic shoes produced at Tobin-Hamilton in Mansfield, Missouri contributed importantly to the total or partial separation of workers at Tobin-Hamilton in Mansfield, Missouri. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Tobin-Hamilton Company, Inc., in Mansfield, Missouri, except those engaged in box toe or stringing operations who were certified earlier under TA-W-26,759, who became totally or partially separated from employment on or after June 11, 1991 are eligible to apply for adjustment

assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of September 1992.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 92-24078 Filed 10-2-92; 8:45 am]

BILLING CODE 4510-30-M

Emergency Unemployment Compensation (EUC) Program; Notice of Decrease in EUC Benefit Levels in Four States

This notice announces recent changes in benefit levels under the Emergency Unemployment Compensation (EUC) Program in four States.

Background

The following trigger changes have occurred in States since publication of the last notice:

- August 2, 1992—Massachusetts decreased to 20 weeks.
- August 16, 1992—Pennsylvania and Vermont decreased to 20 weeks.
- August 30, 1992—Maine decreased to 20 weeks.

Claimants filing initial claims for EUC benefits on or after the above dates in the States cited are entitled to up to 20 weeks of benefits. Claimants who filed initial claims which were effective for a week beginning prior to the cited dates in the corresponding States are eligible to collect their entire entitlement as in effect prior to these changes.

Information for Claimants

The duration of benefits payable in the EUC Period, and the terms and conditions on which they are payable, are governed by the operating instructions issued to the States by the U.S. Department of Labor. The State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potential eligible for EUC benefits (20 CFR 615.13(c)).

Persons who believe they may be entitled to EUC benefits, or who wish to inquire about their rights under the program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC, on September 29, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 92-24080 Filed 10-2-92; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefits Administration

[Application No. D-9050, et al.]

Proposed Exemptions; Detroit Diesel Remanufacturing-West, Inc. Tax-Favored Retirement Savings Plan, 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 a 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, NW., 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-5007, 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.

Detroit Diesel Remanufacturing-West, Inc. Tax-Favored Retirement Savings Plan (the Plan)

Located in Reading, Pennsylvania

[Application No. D-9050]

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 procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 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 cash sale (the Sale) by the Plan to Detroit Diesel Remanufacturing-West, Inc. (DDR-West), a party in interest with respect to the Plan, of an annuity contract, policy number 20274 (the Contract), issued on or about April 1, 1987, by American Protectors Insurance Company, a Utah corporation (American Protectors), provided the following conditions were satisfied: (1) the Sale was a transaction for cash; (2) the Plan did not suffer any loss or incur any expenses from the Sale; (3) the Plan received no less than the fair market

value of the Contract at the time of the Sale; (4) the independent trustee for the Plan, Zions First National Bank of Salt Lake City, Utah, determined that the Sale was appropriate for the Plan and its participants and beneficiaries and that the consideration for the Sale was not less than the current fair market value of the Contract on the date of the Sale; and (5) should DDR–West recover more from the contract than the amount paid, such excess shall be paid to the Plan.

EFFECTIVE DATE: This exemption if granted, will be effective as of May 14, 1992.

Summary of Facts and Representations

1. The Plan is a defined contribution plan with approximately 112 participants and total assets of $238,180.66, as December 31, 1991. The Plan provides that participants may direct investments of their respective individual accounts in the Plan among three investment funds. One of these three funds is the Fixed Income Fund. One investment vehicle in the Fixed Income Fund was the Contract which was purchased by the Plan on or about April 1, 1987. Twelve participants of the Plan had part of their respective account balances invested in the Contract on September 31, 1990.

The fiduciary for the Plan that exercises investment discretion over the assets of the Plan and is responsible for administering the Plan is designated as the Administrative Committee (the Administrative Committee). The Plan also has the Zions First National Bank, located in Salt Lake City, Utah as independent trustee (the Trustee). The Administrative Committee has the power to instruct the Trustee to establish new investment vehicles or discontinue any investment vehicle from time to time. The members of the Administrative Committee are as follows: Robert Carter, Senior Vice President of Penske Trucking Leasing Co., L.P.; John Woodward, President of Detroit Diesel Remanufacturing Corporation; and Clark Keeler, Vice President/Finance of Detroit Diesel Remanufacturing Corporation.

2. DDR–West, a Delaware corporation located in Salt Lake City, Utah, is the sponsoring employer of the Plan. It is engaged in the re-manufacturing of diesel engines. Eighty percent of DDR–West is owned by Detroit Diesel Remanufacturing Corporation which in turn is 100 percent owned by Penske Truck Leasing Co.; also, Penske Truck Leasing Co. holds a 66⅔ interest in the limited partnership which is designated as Penske Truck Leasing Co., L.P. The headquarters of Penske Truck Leasing Co., L.P. and the Detroit Diesel Remanufacturing Corporation are located in Reading, Pennsylvania.

3. The applicant, represents that in its acquisition of the Contract as an investment, the Plan has made numerous and varying payments in the sum of $15,761.67 to American Protectors over a period from April 13, 1987, through August 23, 1989. After August 23, 1989, the Plan made no additional payments to American Protectors.

On September 27, 1990, the Plan was notified that the Third Judicial District Court for Salt Lake County, Utah (the Court) had placed American Protectors, as of September 18, 1990, into liquidation proceedings.[1] On October 5, 1990, the Plan filed a timely claim against American Protectors for the sum of $19,894.49.[2] On April 10, 1992, the Court's Special Deputy Liquidator of American Protectors (the Liquidator) notified the Plan that its claim of October 5, 1990, against American Protectors has been approved in the sum of $20,611.74 with the assigned priority classification of Class 3.[3] The applicants represent that they were informed by the Liquidator that Class 3 priority claims are expected to recover approximately 50 percent of the approved claim, provided there are not numerous objections and/or lengthy court proceedings.

4. The Contract was sold by the Plan to DDR-West on May 14, 1992 for $20,611.74. Payments to the Plan were made on May 14, 1992 and June 24, 1992, respectively, in the sums of $19,894.49 and $717.25. In the event that DDR-West were to recover from the Liquidator or any other source an amount in excess of $20,611.74, such excess shall be returned to the Plan, and will be proportionately, in accordance with each participant's interest in the Contract, allocated among the 12 Plan participants whose individual accounts were invested in the Contract at the time of the Court's notification in September 1990.

The Trustee represents that the Sale was appropriate for the Plan and its participants and beneficiaries because the Sale protects them from market value loss and provides an opportunity for productive reinvestment of funds. Furthermore, the applicant represents that the Sale was in the best interests of the Plan and the 12 participants of the Plan whose individual accounts were invested in the Contract. The Sale enables the Plan to recover assets which otherwise would not be fully recoverable, and was for consideration that exceeds the fair market value of the Contract.

The Trustee also represents that the Plan has not and will not incur any expenses in the transaction involving the Sale.

The applicant represents that the Plan has filed a request for a closing agreement under the terms of the Internal Revenue Procedure 92–16.[4] Whether or not the closing agreement is entered into, the applicants further represent that DDR-West will not treat any portion of the purchase price of the Sale as a funding contribution to the Plan; rather, DDR-West will treat the Sale as an acquisition of an asset by DDR-West.

5. In summary, the applicants represent that the transaction satisfies the criteria of section 408(a) of the Act for the following reasons: (a) The Plan received cash for its interest in the Contract as of the date of Sale, which the Trustee determined to be no less than the fair market value of the Contract on the date of the Sale; (b) the transaction enabled the Plan to avoid any risk from the continued holding of the Contract and permitted the participants to redirect their account balances to safer investments; (c) the Plan incurred no expenses with respect to the transaction; and (d) the Trustee determined that the sale to DDR-West was in the best interest of the Plan and its participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Mr. C.E. Beaver of the Department,

[1] The Department notes that the decisions to acquire and hold the Contract 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 contract.

[2] On June 6, 1991, the Utah Life and Disability Insurance Guaranty Association (ULDIGA) notified the Plan that under Utah law the claim of the Plan to ULDIGA had been rejected. The reason given for the rejection, which was substantiated by legal opinion from legal counsel for ULDIGA, was that ULDIGA provides coverage with respect to annuity contracts only when issued to or owned by individuals, and ULDIGA had concluded that the Plan was not an individual under Utah law.

[3] The claim filed in the amount of $19,894.49 represents the deposits made under the Contract plus accrued interest under the Contract to January 10, 1990, pursuant to the last statement furnished by American Protectors to the Plan. The Liquidator increased and approved the claim in the amount of $20,611.74 which includes additional interest earned from January 10, 1990 to October 18, 1990. October 18, 1990, is the date on which all American Protectors policies which were not covered by the ULDIGA were cancelled.

[4] Internal Revenue Procedure 92–16 provides for a temporary closing agreement program to settle certain tax liabilities that arise out of transactions between an employer-sponsor and the trust of a qualified defined contribution plan.

telephone (202) 523–8881. (This is not a toll-free number.)

Toledo Roofers Local No. 134 Pension Plan and Trust; Cement Masons Local No. 886/404 Pension Plan and Trust; Millwrights, Machinery Erectors & Pile Drivers Local 1393 Retirement Plan and Trust; Sheet Metal Workers Local No. 6 Pension Plan and Trust; Toledo Painters and Allied Trades Pension Plan and Trust; Toledo Plumbers & Pipefitters Pension Plan and Trust; and Toledo Plumbers & Pipefitters Retirement Plan and Trust (collectively, the Plans).

Located in Toledo, Ohio

[Application Nos. D–8502, D–8588, D–8589, D–8591, D–8592, D–8594 and D–8595]

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)(1)(D) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(D) of the Code, shall not apply to the making by certain banks in the northwestern Ohio area (the Banks) of residential mortgage or home construction loans (the Loans) to individuals who are participants of the Plans and parties in interest with respect to such Plans (the Participants) pursuant to an arrangement in which the Plans will purchase certificates of deposit (CDs) from the Banks, provided that the following conditions are met:

(a) The Trust Company of Toledo, N.A. (the Trust Company), an investment manager which is independent of the Banks, the Plans' trustees, and their affiliates, acts on behalf of the Plans for the assets involved in the proposed purchases of CDs, pursuant to the terms of separate written investment management agreements with each of the Plans, to independently determine whether each Plan should make a particular CD purchase;

(b) Callister, Duncan & Nebeker, P.C. (CDN), an independent fiduciary for the Plans, determines on an annual basis that the relevant Plan fiduciaries have discharged their fiduciary duties to the Plans in accordance with the requirements of the Act with respect to any decisions made by the Plans to adopt, implement, or continue participation in the proposed arrangement involving the purchase of CDs by the Plans and the making of the Loans by the Banks to the Participants (the Loan Program), and suspends a Plan's involvement in the Loan Program if such a determination cannot be made;

(c) Such CD purchases by a Plan comply with the conditions of section 408(b)(4) of the Act in instances where the Bank is a fiduciary or other party in interest with respect to the Plan (see 29 CFR 2550.408b–4);

(d) Each CD purchased by a Plan has a maturity not to exceed 36 months from the date of issuance, and pays the maximum rate of interest provided by the Bank for CDs of the same size and maturity being purchased at the time of the transaction by any customer of the Bank who is not eligible to participate in the Loan Program;

(e) Each CD offered to the Plans pursuant to this exemption is sold by the Banks in transactions with unrelated parties in the ordinary course of its business with customers other than the Plans;

(f) The interest rates on all CDs purchased by the Plans under the loan Program, and the total net rate of return to the Plans taking into consideration all expenses associated with the transaction, are at least comparable to, or better than, the interest rates and total net rate of return that could be obtained by the Plans on other fixed income investments of similar risk and term at the time of each CD purchase;

(g) Each Bank which sells CDs to the Plans under the Loan Program is a solvent financial institution, as determined by the Trust Company at least annually based on an analysis of all relevant information involving the Bank's financial status;

(h) The CDs purchased by a Plan from any one Bank participating in the Loan Program do not exceed 4.99% of the fair market value of the Plan's total assets at the time of the transaction;

(i) The CDs purchased by a Plan from all of the Banks participating in the Loan Program do not exceed 8.49% of the fair market value of the Plan's total assets at the time of the transaction;

(j) No Plan trustee, or other Plan fiduciary, who may be involved in any decision regarding a Plan's participation in the Loan Program, receives a Loan under the Loan Program;

(k) As of the date this notice of proposed exemption appears in the Federal Register, a Plan trustee involved in decisions regarding the Loan Program, or an entity in which such Plan trustee has a 50% or more ownership interest, may not engage in any additional personal or business transactions with a Bank during a Plan's participation in the Loan Program with such Bank, as attested to in each instance by appropriate Bank officials on an annual basis and monitored by CDN as the Plan's independent fiduciary;

(l) The investment of the Plans' assets by the Trust Company in CDs of a Bank which participates in the Loan Program is not part of an agreement, arrangement or understanding designed to benefit the Trust Company; and

(m) In the event any Participant defaults on a Loan from a Bank, the Bank has no claim against, or recourse to, the CDs or any other assets of the Plans.

Temporary Nature of Exemption

The exemption, if granted, will be effective only for those Loans made by the Banks to the Participants pursuant to the Loan Program within five years of the date on which the Final Grant of this proposed exemption is published in the **Federal Register**. However, the applicant may, if desired, apply for an extension of the exemption at the end of the five-year period. The application for extension should describe: (i) whether and how compliance with the exemption has been achieved; (ii) the number of transactions engaged in under the exemption; and (iii) the particular decisions made by the Plans' fiduciaries regarding the Loan Program.

Summary of Facts and Representations

1. The Plans are multiemployer, jointly-trusted, employee benefit plans established and maintained pursuant to collective bargaining agreements between several of the northwestern Ohio building and construction industry labor unions (together, the Unions) and employer associations (together, the Associations). The Plans, collectively, have a total of approximately 6290 participants and have assets totalling approximately $126 million.

2. The trustees of each of the Plans (collectively, the Trustees) are the named fiduciaries of the Plans. The Trustees appoint from time to time certain investment managers to handle investment decisions for portions of the assets of each of the Plans. These Plan assets, which are managed by such investment managers, include short-term and fixed income investments made pursuant to broad investment guidelines established by the Trustees. Such investments often include CDs issued by banks as well as other investments designed to meet certain liquidity needs of the Plans. Under the Loan Program, the Trustees of each Plan will appoint a single investment manager (i.e. the Trust Company) to manage specific purchases of CDs from the Banks, within the guidelines set by the Trustees for the fixed income investment portfolios of the Plans. The CDs will be purchased under an arrangement pursuant to which

the Banks will consider making the Loans to the Participants under the Loan Program.

The Banks that are currently interested in participating in the Loan Program are Mid-American National Bank and Trust Company (Mid-Am), Ohio Citizens Bank, Fifth Third Bank of Toledo, Huntington National Bank of Toledo, and Society Bank and Trust.

The applicant represents that some of the Banks are or may become parties in interest with respect to the Plans as a result of being a service provider or fiduciary for certain assets of the Plans.[5] However, none of the Banks will be a fiduciary for any assets of the Plans involved in the proposed CD investments. All decisions concerning such CD investments will be made by the Trust Company, a Plan fiduciary that is independent of the Banks (see Items 5 and 6 below). In addition, all relationships of the Trustees and their affiliates with the Banks will be monitored by CDN to avoid any potential conflicts of interests under the Act by the Trustees and their affiliates (see Items 7 and 8 below).

3. The Loans which the Banks will consider making to the Participants include an unlimited number of residential mortgage loans that are underwritten to meet the standards of the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The Loans will have interest rates based on the market rates offered in the northwestern Ohio area but will be offered to the Participants with reduced or no closing costs. The Loans will also include a limited number of residential mortgage or home construction loans to Participants offering market interest rates, with reduced or no closing costs, which do not meet the standards of Fannie Mae or Freddie Mac. These Loans will not meet the Fannie Mae or Freddie Mac standards because, among other things, the Participant lacks enough cash for a down payment or because of technical rejections by the PMI insurance underwriter who underwrites the mortgage insurance for loans with less than a 20% down payment. All of the Loans will be made on a basis which is consistent with the general lending standards established by the Banks for similar loans and will be in compliance with applicable federal and state banking laws. The applicant states that in the event any Participant defaults on a Loan from a Bank, the Bank will have no claim against, or recourse to, the CDs or any other assets of the Plans.

4. The CDs will have a maturity not to exceed 36 months from the date of issuance. The CDs of the size and maturity purchased by the Plan will have terms identical to CDs which are offered and sold by the Banks to unrelated customers not participating in the Loan Program. Each CD purchased by a Plan will Pay the maximum rate of interest provided by the Bank for CDs of the size and maturity being purchased. The interest rates on the CDs will be at least comparable to, or better than, the interest rates that could be obtained by the Plans on fixed income investments of comparable security and term at the time of the transaction.

The CDs purchased by a Plan from any particular Bank participating in the Loan Program will not exceed 4.99% of the fair market value of the Plan's total assets at the time of the transaction. In addition, the CDs purchased by a Plan from all of the Banks participating in the Loan Program will not exceed 8.49% of the fair market value of the Plan's total assets at the time of the transaction.

No Trustee, or other Plan fiduciary, who may be involved in any decisions regarding a Plan's participation in the Loan Program, will receive a Loan under the Loan Program.[6] Moreover, no Trustee involved in decisions regarding a Plan's participation in the Loan Program, or an entity in which such Trustee has a 50% or more ownership interest, will engage in any additional transactions with a Bank during a Plan's participation in the Loan Program with such Bank. Therefore, the Trustees and related entities subject to their control will not derive any financial benefit, such as banking services at a reduced cost or business or personal loans from the Banks under more favorable terms than provided from other customers of the Banks, as a result of a Plan's participation in the Loan Program.

5. The Trustees will appoint the Trust Company to act as an investment manager on behalf of the Plans for the proposed purchases of CDs, pursuant to the terms of separate written investment management agreements with each of the Plans (the Investment Management Agreements). The Trust Company is a national bank chartered by the Comptroller of the Currency with authority to exercise fiduciary powers and is an investment manager, as defined in section 3(38) of the Act, with experience in handling trust investments for collectively bargained, jointly-trusteed employee benefit plans subject to the Act. The Trust Company is independent of the Trustees and their affiliates. The Trust Company will also remain independent of any Bank issuing CDs. There shall be no transactions between the Trust Company and the Banks which will interfere with the prudence or independence of the Trust Company to serve as the Plans' investment manager for CD purchases from such Banks.[7] The Trust Company acknowledges its duties, responsibilities and liabilities in acting as a fiduciary under the Act for the Plans. Theodore T. Hahn (Mr. Hahn), an Executive Vice President of the Trust Company, will be responsible for carrying out the duties of the Trust Company with respect to the Plans under the Investment Management Agreements. The applicant states that Mr. Hahn has extensive

[5] Section 408(b)(4) of the Act states, in pertinent part, that the prohibitions of section 406 of the Act shall not apply to the investment of a plan's assets in deposits which bear a reasonable interest rate in a bank supervised by the United States or a State, if such bank is a fiduciary of such plan and if such investment is expressly authorized by a provision of the plan or by a fiduciary (other than such bank or affiliate thereof) who is expressly empowered by the plan to so instruct the trustee with respect to such investment. Thus, a Plan's proposed purchase of CDs from a Bank that is a fiduciary or other party in interest with respect to the Plan would be exempt from the restrictions of section 406 by section 408(b)(4), if the conditions of the exemption, and the regulations thereunder (see 29 CFR 2550.408b–4), were met. However, the exemptive relief proposed herein would permit a Bank's making of Loans to certain parties in interest (i.e. the Participants) pursuant to an arrangement involving a Plan's purchase of CDs from the Banks. The Department notes that such an arrangement is a separate transaction which would not be exempted by section 408(b)(4) of the Act. The Department also notes that the proposed exemption is limited only to violations of section 406(a)(1)(D) of the Act which may result from the making of Loans to the Participants pursuant to the described arrangement.

[6] Section 406(b) of the Act states, in pertinent part, that a fiduciary with respect to a plan shall not deal with the assets of a plan in his own interest or for his own account and shall not receive any consideration for his personal account from any party dealing with such plan in connection with a transaction involving the assets of the plan.

[7] The Department assumes, for purposes of the proposed exemption, that the investment of the Plans' assets by the Trust Company in CDs of a Bank will not be part of an agreement, arrangement or understanding designed to benefit the Trust Company. The Department recognizes that banks often price banking services based on a customer's total relationship to the bank. Thus, it is a common practice for a bank to treat some customers of the bank more favorably than other customers because of certain relationships (see Proposed Exemption for Relationship Banking for IRA and Keogh plan customers, 56 FR 8365, February 28, 1991). In this regard, the proposed exemption would permit the Participants to receive certain Loans from a Bank involved in the Loan Program pursuant to an arrangement whereby a Plan purchases CDs from the Bank. However, the Department notes that the relief provided by the proposed exemption does not extend to the receipt of consideration or benefits from a Bank, if any, as a result of a Plan's purchase of CDs from such Bank, by any Plan fiduciary, or to the receipt of any other consideration or benefits by a party in interest with respect to the Plan.

experience in managing fixed-income assets for employee benefit plans and has been recognized within the financial industry for providing superior fixed-income investment performance.

6. The Trust Company, as the Plans' investment manager for the proposed CD purchases, will determine whether each Plan should make a particular CD purchase from any of the Banks by reference to, among others, the following factors: (i) The asset allocations for the Plan; (ii) the investment policy guidelines of the Trustee; (iii) the financial conditions and creditworthiness of the Bank issuing the CD; (iv) the presence and extent of Federal Deposit Insurance Corporation (FDIC) protection for the Plan's CD; (v) the yield and liquidity of the CD as an investment in comparison to other fixed income investments of similar risk and term; and (vi) the expenses which the Plan will incur in connection with the transaction, including the payment of fees to CDN for its services as an independent fiduciary for the Plan (as discussed below in Item 8). In this regard, the Trust Company will ensure that the total net rate of return to the Plan from the CD, taking into consideration all expenses and fees associated with the transaction, will be at least comparable to, or better than, the rate of return available on other fixed income investments of similar risk and term at the time of the transaction. The Trust Company will also be responsible for decisions to suspend purchases of CDs by a Plan from a particular Bank based on these investment criteria.

The Trustees and the Trust Company have agreed, in writing as part of the Investment Management Agreements, to the specific percentage limitations on Plan assets that can be invested in CDs of a particular Bank (i.e. 4.99%) and in CDs of all of the Banks (i.e. 8.49%) under the Loan Program. In addition, the Trustees and the Trust Company have agreed that the purchase of any CDs by a Plan from the Banks when added to the Plan's other short-term or fixed income investments will not exceed the amount which the Trustees of the Plan have allocated for such investments. The Trustees of each Plan will monitor the Trust Company's purchases of CDs for the plan to ensure that such purchases are consistent with the Plan's asset allocation and investment policy guidelines.

With respect to the proposed investment by the Plans in CDs of a particular Bank, the Trust Company has initially determined that it would be prudent and consistent with the investment policies and objectives of the Plans, without taking into account any benefits which may accrue to the Participants under the Loan Program, to invest in CDs issued by Mid-Am in an amount up to the percentage limitations specified in the Investment Management Agreements. The Trust Company states that it will reconsider any investment decisions for CD purchases by the Plans from Mid-Am if the yields for CDs offered by the other Banks become more competitive or if other fixed income investments of comparable risk and term become more attractive for the Plans. The Trust Company will monitor interest rates on comparable CD investments after the Plan's proposed purchases of CDs from Mid-Am, or any other Bank, throughout the term of such CDs to ensure that holding the CDs until maturity would be in the best interests of the Plans, based on rates of return for comparable CD investments. If rates of return on comparable CD investments ever exceed the rate of return on a Plan's CD to such an extent that it would be economically advantageous to the Plan to redeem the CD prior to its maturity even if certain prepayment penalties are incurred, the Trust Company will redeem the CD, incur the prepayment penalties, and will reinvest the net proceeds in such comparable CD investments. However, the Trust Company is empowered to act only as a CD investment manager and is not authorized to invest assets of the Plans other than in CDs. In this regard, the trustees will monitor the performance of the Trust Company and will determine whether fixed income investments of comparable risk and term other than CDs become more attractive for the Plan. In such instances, the Trustees will instruct the Trust Company to return the net proceeds of the Plan's redemption of the CDs to the Trustees, who will reallocate the assets involved to other fixed income investments (such as U.S. Treasury Notes or Bills) managed by the Plan's other investment managers.[8]

7. The Trustees and the Trust Company have agreed to review at least annually the creditworthiness of any Bank issuing CDs to the Plans under the Loan Program. The Trustees and the Trust Company will contract the services of qualified, independent financial consultants to evaluate the financial conditions of such Banks on an annual basis, which will be reviewed by the Trust Company to determine whether the Banks are totally creditworthy and solvent lending institutions. The applicant states that the financial condition of Mid-Am and its affiliates is excellent based on a recent financial analysis by Houlihan, Dorton, Jones, Nicolatus & Stuart, Inc., an independent financial consultant in Salt Lake City, Utah.

The Trust Company's findings that CD purchases from the Banks would be prudent and consistent with the Plans' investment policies and objectives is based, in part, on the fact that, under current banking laws, each participant's interest in the Plans will have FDIC protection up to a maximum of $100,000 per participant.[9] The Trustees and the Trust Company will reconsider the purchase of CDs from the Banks if FDIC protection for the participants' interests in the Plans is ever reduced or jeopardized.

8. The Trustees have appointed CDN, a law firm in Salt Lake City, Utah, to act as an independent fiduciary for the Plans pursuant to separate written agreements with each of the Plans. CDN represents that it is independent of the Unions, the Associations, the Banks and the Participants. CDN acknowledges its duties, responsibilities and liabilities in acting as a fiduciary under the Act for the Plans. Jeffrey N. Clayton, Esq. (Mr. Clayton), an attorney with CDN who has had extensive experience with employee benefit plans, will be responsible for performing the independent fiduciary services for the Plans on behalf of CDN. The fees paid to CDN for all services rendered in connection with its engagement to act as

[8] The Department notes that section 404(a)(1) of the Act requires, among other things, that a fiduciary of a plan must act prudently, solely in the interest of the plan's participants and beneficiaries, and for the exclusive purpose of providing benefits to participants and beneficiaries. In order to act prudently in making investment decisions, a plan fiduciary must consider, among other factors, the availability, risks and potential return of alternative investments for the plan. Investing plan assets in CDs would not be prudent if such CDs would provide the plan with less return, in comparison to risk, than comparable investments available to the plan or if such CDs would involve a greater risk to the security to plan assets than other investments offering a similar return. The Department has construed the requirements that a fiduciary act solely in the interest of, and for the exclusive purpose of providing benefits to, participants and beneficiaries as prohibiting a fiduciary from subordinating the interests of participants and benefits in their retirement income to unrelated objectives. Thus, in deciding whether and to what extent to invest in CDs, a plan fiduciary must consider only factors relating to the interests of the plan participants and beneficiaries in their retirement income. A decision to make an investment in CDs of a particular bank may not be influenced by non-economic factors, such as a desire to encourage the bank to make loans to plan participants, unless the CD investment, when judged solely on the basis of its economic value, would be equal to or superior to alternative investments available to the plan.

[9] See 12 CFR § 330.10 (1990).

an independent fiduciary will be paid by the Plans.

9. CDN represents that it will determine on an annual basis whether the Trustees have discharged their fiduciary responsibilities to the Plans in accordance with the Act in any decisions made by the Plans to adopt, implement, or continue participation in the Loan Program.[10] CDN will suspend a Plan's involvement in the Loan Program if a determination is made by CDN that the Plan's purchase of CDs from Mid-Am or any of the other Banks, pursuant to the proposed arrangement, would be inconsistent with the general fiduciary duties of the Trustees under the Act.

CDN has obtained information from the Union and Management Trustees of the Plans, Union co-sponsors of the Plans, Association co-sponsors of the Plans and employers affiliated with the Trustees, disclosing all transactions and relationships which exist between such persons or entities and Mid-Am. CDN states that it will obtain the same information regarding the relationships of such persons or entities to any of the other Banks prior to a determination made by CDN that the Trustees have met their fiduciary duties to the Plans concerning the proposed participation by the Plans in the Loan Program through the purchase of CDs from such Banks. CDN will monitor all relationships that the Trustees and their affiliates have with the Banks to ensure that a Plan's participation in the Loan Program will not result in a conflict of interest under the Act regarding the role such Plan fiduciaries may have in the implementation of the Loan Program.[11]

CDN notes that some of the Trustees and employers of the Trustees are involved in loan transactions with Mid-Am. However, CDN has obtained an affidavit from Phillip C. Clinard, a senior corporate officer at Mid-Am, which indicates that all such transactions and relationships are bona fide, arm's-length, and have no relationship to the proposed Loan Program.

The applicant states that no additional loan transactions or services, or renewals of existing loan transactions or services, will occur between a Bank and any of the Trustees involved in decisions regarding the Loan Program, or any entities in which such Trustees have a 50% or more ownership interest, during a Plan's participation in the Loan Program with such Bank. CDN will obtain affidavits annually from any Bank that participates in the Loan Program. The affidavits will describe all existing transactions between the Bank and the Trustees of a Plan, as well as entities controlled by such Trustees, and will disclose whether any new transactions have occurred. If such new transactions have occurred during a Plan's participation in the Loan Program, CDN will provide notice to the parties to discontinue the transactions and will suspend a Plan's involvement in the Loan Program if the transactions are not discontinued within a reasonable time.[12]

10. CDN represents that the Trustees have discharged their fiduciary responsibilities to the Plans in accordance with the Act in the proposed implementation of the Loan Program and that proceeding with the Loan Program will not constitute a violation of the Trustees' fiduciary duties under the Act. However, CDN states that two of the Trustees, Neil MacKinnon (Mr. MacKinnon) and Robert R. Good (Mr. Good), have relationships to Mid-Am which would create a conflict of interest if they are allowed to participate in any decisions by the Plans to implement or continue participation in the Loan Program regarding the purchase of CDs from Mid-Am. In this regard, CDN notes that Mr. MacKinnon is a Trustee of the Toledo Roofers Local No. 134 Pension Plan and Trust (the Toledo Roofers Plan) and is a director and shareholder of Bancsites, a formerly wholly owned real estate subsidiary of Mid-Am which has derived significant amounts of its revenue from Mid-Am in recent years. Mr. Good is a Trustee of the Sheet Metal Workers Local No. 6 Pension Plan and Trust (the Sheet Metal Workers Plan) and is a stockholder in Mid-Am and a member of the advisory board for one of Mid-Am's branch banks. CDN represents that its determination that the Trustees will meet their fiduciary duties under the Act with respect to the implementation of the Loan Program presumes the removal of Mr. MacKinnon and Mr. Good from any role in decisions concerning the participation of the Toledo Roofers Plan or the Sheet Metal Workers Plan in the Loan Program with respect to the purchase of CDs from Mid-Am. The applicant states that Mr. MacKinnon and Mr. Good have not been involved in any decisions concerning their Plans' proposed participation in the Loan Program. In addition, the applicant states that Mr. MacKinnon and Mr. Good, as well as any other Trustee which has or may have a conflict of interest with Mid-Am or any of the other Banks that may become involved in the Loan Program, will remove themselves from any considerations or decisions made by the Plans to adopt, implement, or continue participation in the Loan Program and will not use their influence upon any other Trustee regarding such decisions.

11. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because: (a) The CDs purchased by the Plans will have the maximum rate of interest provided by the Bank for CDs of the size and maturity being purchased at the time of the transactions by any customer of the Bank not eligible to participate in the Loan Program, and will be at least comparable to, or better than, the interest rates that could be obtained by the Plans on fixed income investments of similar risk and term at the time of the transaction; (b) the CDs purchased by a Plan from the Banks participating in the Loan Program will not exceed 8.49% of the Plan's total assets at the time of the transaction; (c) no Trustee, or other Plan fiduciary involved in any decisions regarding a Plan's participation in the Loan Program, will receive a Loan under the Loan Program, and no Trustee or entity in which such Trustee has a 50% or more ownership interest will engage in any additional transactions with a Bank selling CDs to a Plan during a Plan's participation in the Loan Program; (d) the Banks will have no claim against, or recourse to, the CDs or any other assets of the Plans in the event of a default by

[10] The Department notes that CDN's representations pertain to the Trustees and their affiliates. The Department assumes the purposes of these representations that CDN will also perform the same functions with respect to any individual or entity which provides investment advice, within the meaning of 29 CFR 2510.3-21(c), to the Trustees regarding decisions to adopt, implement or continue participation in the Loan Program.

[11] The applicant states that the Northwestern Ohio Building and Construction Industry Foundation (the Foundation), a non-profit unincorporated association organized under the laws of Ohio which constitutes "plan assets" of some of the Plans, has participated in construction loans with certain lending institutions in the northwestern Ohio area, including Mid-Am. Pursuant to Prohibited Transaction Exemption 85-58 (PTE 85-58, 50 FR 11272, March 20, 1985), some of these construction loans have been made to parties in interest with respect to the Plans. The applicant represents that all transactions involving the Foundation and Mid-Am, as well as the other lending institutions, have met the conditions for relief under PTE 85-58.

[12] The Department notes that the proposed exemption, if granted, will not be available for any Loans from a Bank to Participants of a particular Plan pursuant to the described arrangement where any new transactions between that Plan's trustees, or entities controlled by such Trustees, and such Bank have occurred (see condition (k)).

a Participant on a Loan; (e) the Trust Company, as the Plans' independent investment manager for the proposed CD purchases, will determine whether each Plan should make a particular CD purchase from any of the Banks; and (f) CDN, a qualified, independent fiduciary acting for the Plans, will determine whether the relevant Plan fiduciaries have discharged their fiduciary responsibilities to the Plans with respect to any decisions made by the Plans to adopt, implement, or continue participation in the Loan Program and will suspend a Plan's involvement in the Loan Program in the event that such a determination cannot be made.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department at (202) 523–8883. (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 fidiciary 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 done 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, if 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 the masterial 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 30th day of September 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S., Department of Labor.

[FR Doc. 92–24084 Filed 10–2–92; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 92–75; Exemption Application No. D–8990, et al.]

Grant of Individual Exemptions; Holiday Inns, Inc.; Savings and Retirement Plan, 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.

Holiday Inns, Inc. Savings and Retirement Plan (the Plan), Located In Atlanta, Georgia

[Prohibited Transaction Exemption 92–75; Exemption Application No. D–8990]

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 (1) the extension of credit to the Plan (the Advances) by Holiday Inns, Inc., the sponsor of the Plan, with respect to guaranteed investment contract number CG0120303A (the GIC) issued to the Plan by Executive Life Insurance Company of California (Executive Life); and (2) the Plan's potential repayment of the Advances (the Repayments), provided that (a) all terms of such transactions are no less favorable to the Plan than those which the Plan could obtain in arm's-length transactions with an unrelated party; (b) the Advances are made only in lieu of payments due from Executive Life with respect to the GIC; (c) the Repayments shall not exceed the amount of the Advances plus any interest which may accrue thereon from the date of each Advance at the S.I. Daily Rate (as described in the Notice of Proposed Exemption); (d) the Repayments of the Advances, including interest thereon, if any, shall be made only from, and shall not exceed, the amounts actually received by the Plan from Executive Life and other responsible third parties with respect to the GIC (Third Party Recoveries); and (e) the Repayments are waived to the extent the Advances exceed the Third Party Recoveries.

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 July 23, 1992 at 57 FR 32816.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Garmac Company, Inc. Defined Benefit Pension Plan (the Plan)

[Prohibited Transaction Exemption 92–76; Located in White Plains, NY; Exemption Application No. D–9007]

Exemption

The restrictions of section 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 a loan (the Loan) by the Plan to the Garmac Company, Inc. (the Employer), a party in interest with respect to the Plan, provided that: (a) No more than 25% of the assets of the Plan are involved in the Loan; (b) the terms and conditions of the Loan are no less favorable to the Plan than those obtainable in an arm's length transaction involving an unrelated third party; (c) an independent qualified fiduciary determines on behalf of the Plan that the transaction is feasible in the interest of the Plan, and protective of the participants and beneficiaries of the Plan; and (d) the independent qualified fiduciary monitors compliance with the terms of the Loan throughout the duration of the transaction.

EFFECTIVE DATE: This exemption is effective on August 12, 1992.

Written Comments

In the Notice of Proposed Exemption (the Notice), the Department invited all interested persons to submit written comments and any requests for a hearing on the proposed exemption within forty-five (45) days of the date of publication of the Notice in the **Federal Register**. All comments and requests for hearing were due by September 8, 1992.

The Department received no requests for hearing. However, the Department did receive one written comment with respect to the Notice from Garrison Corwin, Esq. (Mr. Corwin), the independent fiduciary acting on behalf of the Plan for the proposed transaction. In his letter of September 8, 1992, Mr. Corwin informed the Department that the Employer entered into the transaction on August 12, 1992. Mr. Corwin also represented that the formula for computing interest as set forth in the Notice resulted in an interest rate of 9.34%. In the opinion of Mr. Corwin, such interest rate remains reasonable, even though the Loan did not close on July 1, 1992, as originally requested by the Employer in the application for exemption.

After giving full consideration to the entire record, including the written comment, and because, among other reasons, Mr. Corwin, acting as independent fiduciary on behalf of the Plan, has reviewed and will monitor the terms of the Loan and has concluded that the transaction is feasible, in the interest of, and protective of the Plan and the participants and beneficiaries, the Department has decided to grant the exemption retroactively.

Further, Mr. Corwin informed the Department that the Summary of Facts and Representations of the Notice contained one typographical error as published in the **Federal Register**. In this regard, the word, "Plan" should replace the word, "Loan" as the last word in the last sentence of the next to the last paragraph in the middle column on page 32822. The Department wishes to correct the error, and accordingly, incorporates this information into the granted exemption as corrected.

All comments submitted to the Department are included as part of the public record of the exemption application. The complete application file, including all supplemental submissions received by the Department are made available for public inspection in the Public Disclosure Room of the Pension Welfare Benefits Administration, room N–5507, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on July 23, 1992, at 57 FR 32821.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Shearson Lehman Brothers, Inc. (Shearson Lehman), Located in New York, NY

[Prohibited Transaction Exemption 92–77; Exemption Application No. D–8723]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) 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 (D) shall not apply to the proposed purchase or redemption of shares by an employee benefit plan, an individual retirement account (the IRA) or a retirement plan for a self-employed individual (the Keogh Plan; collectively, the Plans) in the Shearson Lehman-established Trust for TRAK Investments (the Trust) in connection with such Plans' participation in the TRAK Personalized Investment Advisory Service (the TRAK Program). In addition, the restrictions of section 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)(E) shall not apply to the provision, by the Consulting Group Division of Shearson Lehman (the Consulting Group), of investment advisory services to an independent fiduciary of a participating Plan (the Independent Plan Fiduciary) which may result in such fiduciary's selection of a portfolio grouping (the Portfolio-Type) in the TRAK Program for the investment of Plan assets.

This exemption is subject to the following conditions that are set forth below in section II.

Section II. General Conditions

(1) The participation of Plans in the TRAK Program will be approved by an Independent Plan Fiduciary. For purposes of this requirement, an employee, officer or director of Shearson Lehman and/or its affiliates covered by an IRA not subject to title I of the Act will be considered an Independent Plan Fiduciary with respect to such IRA.

(2) The total fees paid to the Consulting Group and its affiliates will constitute no more than reasonable compensation.

(3) No Plan will pay a fee or commission by reason of the acquisition or redemption of shares in the Trust.

(4) The terms of each purchase or redemption of Trust shares shall remain at least as favorable to an investing Plan as those obtainable in an arm's length transaction with an unrelated party.

(5) The Consulting Group will provide written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based upon objective criteria.

(6) Any recommendation or evaluation made by the Consulting Group to an Independent Plan Fiduciary will be implemented only at the express direction of such independent fiduciary.

(7) The Consulting Group will generally give investment advice to an Independent Plant Fiduciary with respect to Portfolio-Types. However, in the case of a Plan providing for participant-directed investments (the Section 404(c) Plan), the Consulting Group will provide investment advice

that is limited to the Portfolios made available under the Plan.

(8) Any sub-adviser (the Sub-Adviser) that acts for the Trust to exercise investment discretion over a Portfolio will be independent of Shearson Lehman and its affiliates.

(9) Immediately following the acquisition by a Portfolio of any securities that are issued by Shearson Lehman and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will not exceed one percent.

(10) The quarterly investment advisory fee that is paid by a Plan to the Consulting Group for investment advisory services rendered to such Plan will be offset by such amount as is necessary to assure that the Consulting Group retains no more than 20 basis points from any Portfolio which contains investments attributable to the Plan investor.

(11) The Consulting Group will not retain an investment advisory or management fee from the Government Money Investments Portfolio.

(12) With respect to its participation in the TRAK Program prior to purchasing Trust shares,

(a) Each Plan will receive the following written or oral disclosures from the Consulting Group:

(1) A copy of the prospectus (The Prospectus) for the Trust discussing the investment objectives of the Portfolios comprising the Trust, the policies employed to achieve these objectives, the corporate affiliation existing between the Consulting Group, Shearson Lehman and its subsidiaries and the compensation paid to such entities.

(2) Upon written or oral request to Shearson Lehman, a Statement of Additional Information supplementing the Prospectus which describes the types of securities and other instruments in which the Portfolios may invest, the investment policies and strategies that the Portfolios may utilize and certain risks attendant to those investments, policies and strategies.

(3) A copy of the investment advisory agreement between the Consulting Group and such Plan relating to participation in the TRAK Program.

(4) Upon written request of Shearson Lehman, copy of the respective investment advisory agreement between the Consulting Group and the Sub-Advisers.

(5) In the case of a Section 404(c) Plan, if required by the arrangement negotiated between the Consulting Group and the Plan, an explanation by a Shearson Lehman Financial Consultant (the Financial Consultant) to eligible participants in such Plan, of the services offered under the TRAK Program and the operation and objectives of the Portfolios.

(b) If accepted as an investor in the TRAK Program, an Independent Plan Fiduciary of an IRA or Keogh Plan, will be required to acknowledge, in writing, prior to purchasing Trust shares that such fiduciary has received copies of such documents.

(c) With respect to a Section 404(c) Plan, written acknowledgement of the receipt of such documents will be provided by the Independent Plan Fiduciary (i.e., the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares). Such Independent Plan Fiduciary will be required to represent in writing to Shearson Lehman that such fiduciary is (1) independent of Shearson Lehman and its affiliates and (2) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(d) With respect to a Plan that is covered under Title I of the Act, where investment decisions are made by a trustee, investment manager or named fiduciary, and Independent Plan Fiduciary will be required to acknowledge, in writing, receipt of such documents and represent to Shearson Lehman that such fiduciary is (1) independent of Shearson Lehman and its affiliates, (2) capable of making an independent decision regarding the investment of Plan assets and (3) knowledgeable with respect to the Plan in administrative matters and funding matters related thereto, and able to make an informed decision concerning participation in the TRAK Program.

(13) Each Plan will receive the following written or oral disclosures with respect to its ongoing participation in the TRAK Program:

(a) The Trust's semi-annual and annual report which will include financial statements for the Trust and investment management fees paid by each Portfolio.

(b) A written quarterly monitoring report containing an analysis and an evaluation of a Plan investor's account to ascertain whether the Plan's investment objectives have been met and recommending, if required, changes in Portfolio allocations.

(c) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly, detailed investment performance monitoring report, in writing, provided to an Independent Plan Fiduciary of such Plan showing Plan level asset allocations, Plan cash flow analysis and annualized risk adjusted rates of return for Plan investments. In addition, if required by such arrangement, Financial Consultants will meet periodically with Independent Plan Fiduciaries of Section 404(c) Plans to discuss the performance monitoring report as well as with eligible participants to review their accounts' performance.

(d) If required by the arrangement negotiated between the Consulting Group and a Section 404(c) Plan, a quarterly participant performance monitoring report provided to a Plan participant which accompanies the participant's benefit statement and describes the investment performance of the Portfolios, the investment performance of the participant's individual investment in the TRAK Program, and gives market commentary and toll-free numbers that will enable the participant to obtain more information about the TRAK Program or to amend his or her investment allocations.

(e) On a quarterly and annual basis, written disclosures to all Plans of the (1) percentage of each Portfolio's brokerage commissions that are paid to Shearson Lehman and its affiliates and (2) the average brokerage commission per share paid by each Portfolio to Shearson Lehman and its affiliates, as compared to the average brokerage commission per share paid by the Trust to brokers other than Shearson Lehman and its affiliates, both expressed as cents per share.

(14) Shearson Lehman shall maintain, for a period of six years, the records necessary to enable the persons described in paragraph (16) 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 Shearson Lehman and/or its affiliates, the records are lost or destroyed prior to the end of the six year period, and (b) no party in interest other than Shearson Lehman 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 (15) below.

(15)(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 (14) 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 (the Service);

(2) Any fiduciary of a participating Plan or any duly authorized representative of such fiduciary;

(3) Any contributing employer to any participating Plan or any duly authorized employee representative of such employer; and

(4) Any participant or beneficiary of any participating Plan, or any duly authorized representative of such participant or beneficiary.

(b) None of the persons described above in subparagraphs (2)–(4) of this paragraph (15) shall be authorized to examine the trade secrets of Shearson Lehman or commercial or financial information which is privileged or confidential.

Section III. Definitions

For purposes of this exemption:

(1) An "affiliate" of Shearson Lehman includes—

(a) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Shearson Lehman. (For purposes of this subsection, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.)

(b) Any officer, director or partner in such person, and

(c) Any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.

(2) An "Independent Plan Fiduciary" is a Plan fiduciary which is independent of Shearson Lehman and its affiliates and is either

(a) A Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares of a Section 404(c) Plan,

(b) A participant in a Keogh Plan,

(c) An individual covered under a self-directed IRA which invests in Trust shares, or

(d) A trustee, investment manager or named fiduciary responsible for investment decisions in the case of a title I Plan that does not permit individual direction as contemplated by Section 404(c) of the Act.

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 (the Notice) published on April 3, 1992 at 57 FR 11514.

EFFECTIVE DATE: This exemption is effective as of April 3, 1992.

Written Comments

The Department received one comment letter with respect to the Notice and no requests for a public hearing. The letter, which was submitted by Shearson Lehman, addresses certain clarifications to the Notice, including clarifications to the General Conditions and the Summary of Facts and Representations. Discussed below are the changes suggested by Shearson Lehman and the Department's responses thereto. In addition, the Department has made several clarifying changes to the final exemption which are also discussed below.

With respect to the General Conditions that are set forth in Section II of the Notice, Shearson Lehman wishes to make several clarifications. In this regard, Shearson Lehman notes that, in general, in the case of IRAs that are maintained by employees of Shearson Lehman or its affiliates, such employees should be considered "Independent Plan Fiduciaries." In addition, Shearson Lehman requests that Condition (1) should read as follows in order that it will conform to the other General Conditions:

> The participation of plans in the TRAK Program will be approved by an Independent Plan Fiduciary.

To clarify that Sub-Advisers act for the Trust after having been approved by the Trust in accordance with the terms of section 15 (a) and (c) of the Investment Company Act of 1940, as amended (the 1940 Act), or any exemption granted by the Securities and Exchange Commission, Shearson Lehman recommends that Condition (8) of the General Conditions be modified to read as follows:

> Any sub-adviser (the Sub-Adviser) that acts for the Trust to exercise investment discretion over a Portfolio will be independent of Shearson Lehman and its affiliates.

In the case of a Plan covering one or more employees of the Plan sponsor (such as a Section 404(c) Plan), Shearson Lehman notes that Condition (10) requires only that the investment advisory fee paid by the Plan be offset in the manner described in the condition (i.e., the offset will be determined based on the aggregate investment of the Plan accounts). Shearson Lehman represents that it does not have control over how the Plan, for internal expenses, allocates the offset among individual accounts. As long as the fee is offset at the Plan level, Shearson Lehman represents that it cannot be construed to have any economic incentive to provide investment allocation advice favoring one Portfolio over another.

Shearson Lehman observes that several of the General Conditions refer to "Shearson Lehman and its affiliates" but the Notice does not define the term "affiliate." After giving due consideration to this comment, the Department has determined to add a new Section III to the exemption titled "Definitions" in which the terms "affiliate," and "Independent Plan Fiduciary" are defined as follows:

> An "affiliate" of Shearson Lehman includes (a) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Shearson Lehman (For purposes of this subsection, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.) (b) any officer, director or partner in such person, and (c) any corporation or partnership of which such person is an officer, director or a 5 percent partner or owner.
>
> An "Independent Plan Fiduciary" is a Plan fiduciary which is independent of Shearson Lehman and its affiliates and is either (a) a Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares of a Section 404(c) Plan, (b) a participant in a Keogh Plan, (c) an individual covered under a self-directed IRA which invests in Trust shares, or (d) a trustee, investment manager or named fiduciary responsible for investment decisions in the case of a Title I Plan that does not permit individual direction as contemplated by section 404(c) of the Act.

With respect to modifications to the Summary of Facts and Representations, Shearson Lehman represents that the first paragraph of Item 1 of the Notice which was based on the application for exemption confuses the descriptions of Shearson Holdings, Shearson Lehman and Shearson Lehman Brothers. Accordingly, Shearson Lehman requests that the third, fourth and fifth sentences of that paragraph be amended to read as follows:

> Shearson Holdings conducts its principal businesses through two divisions of Shearson Lehman—Shearson Lehman Brothers and Lehman Brothers. Shearson Lehman Brothers is responsible for individual investor services and asset management while Lehman Brothers is responsible for securities underwriting, financial advisory, investment and merchant banking services and securities and commodities trading as principal and agent. Shearson Lehman is a member of all principal securities and commodities exchanges in the United States and the National Association of Securities Dealers, Inc.

Shearson Lehman also wishes to update the second sentence of the second paragraph under Item 2 of the Notice by noting that the Balanced Investments Portfolio is expected to be

offered in July 1992 at an initial per share value of $8.00.

In order that Footnote 1 of the Notice more closely tracks the language of Condition (9), Shearson Lehman suggests the following modification:

Because a Portfolio is not precluded from investing in securities that are issued by Shearson Lehman or its affiliates, Shearson Lehman represents that, as a limitation, immediately following the acquisition by a Portfolio of any securities that are issued by Shearson Lehman and/or its affiliates, the percentage of that Portfolio's net assets invested in such securities will not exceed one percent.

Since Shearson Lehman cannot assure that Section 404(c) Plans participating in the TRAK Program will pass through voting rights to participants on a pro rata basis, it recommends that the second paragraph of Footnote 2 of the Notice be amended to read as follows:

In the case of individual account plans such as Section 404(c) Plans, Shearson Lehman believes that most Plans will pass-through the vote to participants on a pro rata basis.

Shearson Lehman also represents that it may serve as prototype sponsor for Plans participating in the TRAK Program. Therefore, the third sentence of the second paragraph under Item 3 of the Notice should be amended by adding the following language:

Accordingly, Shearson Lehman has requested prospective exemptive relief from the Department with respect to the purchase and redemption of shares in the Trust by participating Plans which it does not sponsor (other than only as prototype sponsor) or have discretionary investment authority over the Plan's assets which would be invested in Trust shares.

To clarify that Plans for which Shearson Lehman has a pre-existing relationship will be able to participate in TRAK, Shearson Lehman asks that the second sentence of Footnote 4 be amended to read as follows:

The applicant further represents that, although the exemptive relief proposed above would not permit Shearson Lehman or an affiliate, while serving as a Plan fiduciary with discretionary authority over the management of a Plan's assets, to invest in Trust shares those assets over which it exercises discretionary authority, a purchase or redemption of Trust shares under such circumstances would be permissible if made in compliance with the terms and conditions of Class Prohibited Transaction Exemption (PTE) 77–4 (42 FR 18732, April 8, 1977).

Shearson Lehman represents that the Trust's Board of Directors consists of seven members, four of whom are not affiliated with Shearson Lehman and three of whom are affiliated with Shearson Lehman, all in accordance with the provisions of section 10(b) of the 1940 Act. Accordingly, Shearson Lehman recommends that Item 4 of the Notice be amended to read as follows:

Overall responsibility for the management and supervision of the Trust and the Portfolios rests with the Trust's Board of Trustees (the Trustees) which currently is comprised of seven members. The Trustees approve all significant agreements involving the Trust and the persons and companies who provide services to the Trust and the Portfolios. Three of the Trustees and all of the Trust's executive officers are affiliated with Shearson Lehman and/or its affiliates. The four remaining Trustees are not affiliated with Shearson Lehman.

Because the applicant now represents that not all services described in Footnote 7 of the Notice will be provided to every Section 404(c) Plan, Shearson Lehman believes that an updated, clarifying paragraph should be added to the footnote which would read as follows:

The applicant notes that not all of the services described in the preceding two paragraphs will be provided to every Section 404(c) Plan. The services provided to each Plan will depend on the arrangement negotiated between Shearson Lehman and the Independent Plan Fiduciary.

Shearson Lehman represents that it cannot assure that the Plan administrator, trustee or named fiduciary of a Section 404(c) Plan will make available a copy of the Trust Prospectus to each participant. Therefore, it requests that Footnote 9 of the Notice be amended to read as follows:

In the case of a Section 404(c) Plan, the applicant represents that the Plan administrator, trustee or named fiduciary, as the recordholder of Trust shares, will receive a copy of the Trust Prospectus. If requested by such Plan administrator, trustee or named fiduciary, Shearson Lehman will make available to such Independent Plan Fiduciary sufficient quantities of Prospectuses for a distribution to Plan participants, as well as provide Statements of Additional Information to any party upon request.

Item 15 of the Notice inadvertently states that investors in the TRAK Program may exchange Portfolio shares with one another. Shearson Lehman wishes to clarify that the first sentence of Item 15 should be amended to read as follows:

Shares of a Portfolio may be exchanged by an investor, without any exchange fee, for shares of another Portfolio at their respective net asset values.

Shearson Lehman states that PTE 77–3 applies only to employee benefit plans and is, therefore, inapplicable to IRAs maintained by employees of Shearson Lehman or its affiliates. In addition, Shearson Lehman states that it does not currently charge an outside fee for such IRA accounts but it may do so in the future. Accordingly, Shearson Lehman recommends that the first and last sentences of Footnote 13 of the Notice be amended to read as follows:

The applicant represents that the outside fee is not currently imposed on accounts of American Express and its subsidiaries, including Shearson Lehman, accounts of their immediate families and IRAs and certain employee pension benefit plans for these persons * * * With respect to employee pension benefit plans maintained by Shearson Lehman or its affiliates for their employees, the applicant asserts that such waiver would be required by PTE 77–3.

With respect to the TRAK fee structure described in the Notice in Item 18 and the accompanying example, Shearson Lehman wishes to make two clarifications. First, because the TRAK fee and corresponding fee offset for a calendar quarter are based on the "net asset value" of Trust Portfolio shares at the end of the immediately preceding calendar quarter rather than the "average daily value" of Trust Portfolio shares, Shearson Lehman requests that the first sentence of the example be amended to read as follows:

Assume that as of March 31, 1992, the net asset value of Trust Portfolio shares held by a Plan investor was $1,000.

Second, Shearson Lehman has updated its submission by representing that the last parenthetical of the last paragraph of the example should not refer to the "Statement of Additional Information" but should instead refer to the "TRAK Program Description." Therefore, Shearson Lehman recommends that the parenthetical read as follows:

(pursuant to the authorization contained in the TRAK Investment Advisory Agreement, and as described in the TRAK Program Description appended to the Prospectus).

Finally, Shearson Lehman suggests that Clause (e) under Item 19 should be modified to track the language of Condition (5) as follows:

the Consulting Group will provide written documentation to an Independent Plan Fiduciary of its recommendations or evaluations based on objective criteria.

The Department has reviewed the clarifications and amendments as described above, and concurs with these changes. Accordingly, upon consideration of the entire record, including the written comment received, the Department has determined to grant the exemption subject to the aforementioned changes.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Goldman, Sachs & Co. (Goldman Sachs) and the Goldman Sachs Trust Company (GSTC), Located in New York, New York

[Prohibited Transaction Exemption 92–78; Exemption Application No. D–8977]

Exemption

The restrictions of sections 4069(a)(1)(A) through (D) and 406(b)(1) and (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 lending of securities to Goldman Sachs by employee benefit plans, including plans for which GSTC acts as custodian, and to the receipt of compensation by GSTC in connection with these transactions, provided that the following conditions are met:

1. Neither Goldman Sachs nor GSTC will have discretionary authority or control over a plan's investment in the securities to be loaned, and GSTC will have no discretionary authority or control over the investment of the plan assets involved in the transactions;

2. Goldman Sachs will directly negotiate an "exclusive borrowing" agreement with a plan fiduciary who is independent of Goldman Sachs and GSTC;

3. The exclusive borrowing agreement may be terminated by either party to the agreement at any time;

4. The market value of the collateral will initially equal at least 102 percent of the market value of the loaned securities and, if the market value of the collateral at any time falls below 100 percent, Goldman Sachs will delivery additional collateral on the following day such that the market value of all collateral will again equal 102 percent;

5. Goldman Sachs or GSTC will furnish weekly reports to the plan fiduciaries so that the value of the collateral may be monitored;

6. All procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of Prohibited Transaction Exemptions (PTEs) 81–6 and 82–63;

7. Goldman Sachs will indemnify the plan against any losses due to its use of the borrowed securities;

8. The plan will receive credit for all interest, dividends or other distributions on any borrowed securities;

9. Upon delivery of loaned securities to Goldman Sachs, GSTC or another custodian, on behalf of a plan, will receive from Goldman Sachs, the same day by physical delivery or book entry in a securities depository, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies, or other collateral permitted under PTE 81–6; and

10. Prior to any plan's approval of the lending of its securities to Goldman Sachs, a copy of this exemption (and the notice of pendency) will be provided to the plan.

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 July 23, 1992, at 57 FR 32819.

FOR FURTHER INFORMATION CONTACT: Paul Kelty of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Amended and Restated Earth Consultants, Inc. Profit Sharing Plan (the Plan), Located in Bellevue, Washington

[Prohibited Transaction Exemption 92–79; Exemption Application No. D–8993]

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 the sale by the Plan of three lots of unimproved real property located in Camano Island, Washington, (the Properties) to Robert Levinson, a party in interest with respect to the Plan; provided that (a) the sale is a one-time transaction for cash; (b) the Plan receives a purchase price which is not less than the fair market value of the Properties as of the date of the sale; and (b) the Plan does not incur any costs or expenses related to the transaction.

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 July 23, 1992, at 57 FR 32823.

FOR FURTHER INFORMATION CONTACT: Ronald Willett 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 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 30th day of September, 1992.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 92–24085 Filed 10–2–92; 8:45 am]

BILLING CODE 4510–29–M

LEGAL SERVICES CORPORATION

Grant Award for Legal Service State Support Center in Missouri

AGENCY: Legal Services Corporation.

ACTION: Announcement of intention to award grant.

SUMMARY: The Legal Services Corporation hereby announces its intention to award a one-time, non-recurring grant to provide substantive and training support to legal service programs in the state of Missouri. The Corporation plans to award a grant in the amount of $71,428 to legal Services of Eastern Missouri, Inc.

This one-time grants will be awarded pursuant to authority conferred by section 1006(a)(3) of the Legal Services Corporation Act of 1974, (Act) as amended. This public notice is issued pursuant to section 1007(f) of this Act, with a request for comments and recommendations within a period of

thirty (30) days from the date of publication of this notice. The grant award will not become effective and grant funds will not be distributed prior to expiration of this thirty-day period.

DATES: All comments and recommendations must be received on or before the close of business on November 2, 1992.

ADDRESSES: Comments are to be sent to the Office of Field Services, Legal Services Corporation, 750 First Street, N.E., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Phyllis Doriot, Manager, Grants and Budgets Division, Office of Field Services, (202) 336–8825.

Date Issued: September 29, 1992.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 92–23981 Filed 10–2–92; 8:45 am]

BILLING CODE 7050–01–M

Solicitation for Proposals for the Provision of Civil Legal Services to the Tri-Parish Area of Louisiana

AGENCY: Legal Services Corporation.

ACTION: Solicitation for proposals.

SUMMARY: The Legal Services Corporation (LSC) is soliciting proposals to provide effective, efficient and high quality civil legal services in 1993 to the LSC-eligible client population in Catahoula, Concord, and LaSalle Parishes, Louisiana ("Tri-Parish area").

DATES: Proposals must be received by 5 p.m., November 4, 1992.

ADDRESSES: A solicitation package, containing the grant application guidelines, proposal content requirements, and specific selection criteria, is available from the Grants and Budget Division, Office of Field Services, Legal Services Corporation, 750 First Street, NE, 11th Floor, Washington DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Ressie Walker, Grants Specialist, Grants and Budget Division Office of Field Services, (202) 336–8826.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation is the national organization charged with administering federal funds provided for civil legal service to the poor. LSC is seeking applicants from the private bar and other organizations (including currently funded LSC grantees) with a demonstrated sensitivity and commitment to deliver services to low-income persons, to provide civil legal services to the Tri-Parish area.

The amount of the grant will be consistent with any basic field formula mandated by the 1993 LSC Appropriations Act. The grant amount will be based on the service area's poverty population (derived from the 1990 census) multiplied by the per capita funding level prescribed by the 1993 basic field grant funding formal. A total of $132,725 was awarded for 1992.

The selected applicant will be awarded a onetime, nonrecurring grant that will begin no earlier than January 1, 1993, and will end on December 31, 1993. This onetime grant will be awarded pursuant to authority conferred by sections 1006(a)(1)(B) of the Legal Services Corporation Act of 1974 (LSC Act), as amended.

Dated: September 29, 1992.

Ellen J. Smead,

Director, Office of Field Services.

[FR Doc. 92–23982 Filed 10–2–92; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 92–57]

NASA Advisory Council Task Force on Advanced Computing Capabilities; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council Task Force on Advanced Computing Capabilities.

DATES: October 28, 1992, 8:30 a.m. to 4 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 7002, 400 Maryland Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia K. Kraemer, Code ADA–2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453–8766.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Organization of Study
—Briefing on High Performance Computing and Communications
—Agenda for Next Meeting

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Visitors will be requested to sign a visitor's register.

Dated: September 30, 1992.

Philip D. Waller,

Deputy Director, Management Operations Division.

[FR Doc. 92–24053 Filed 10–2–92; 8:45 am]

BILLING CODE 7510–01–M

[Notice 92–56]

NASA Advisory Council; Space Science and Applications Advisory Committee; Space Physics 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, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Space Physics Subcommittee.

DATES: October 22, 1992, 8 a.m. to 5 p.m.; and October 23, 1992, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, room MIC–5, 300 E Street SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. George Withbroe, Code SS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1544.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Space Physics Division Overview: Budget, Ongoing Program, Future Activities
—Program Reports for Magnetospheres, Cosmic and Heliospheric Physics, Solar Physics, Ionosphere-Thermosphere-Mesosphere
—Space Physics Research and Analysis Program
—Space Physics Mission Operations and Data Analysis
—Discussion and Writing Groups

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: September 28, 1992.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 92–24052 Filed 10–2–92; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Collection of Information Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting a notice of information collections, for expedited clearance, that will affect the public. Interested persons are invited to submit comments by October 30, 1992. Comments may be submitted to:

(A) *Agency Clearance Officer.* Herman G. Fleming, Division of Personnel and Management, National Science Foundation, Washington, DC 20550, or by telephone (202) 357–7335, and to:

(B) *OMB Desk Officer.* Office of Information and Regulatory Affairs ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: 1993 National Survey of College Graduates.

Affected Public: Individuals.

Respondents/Reporting Burden: 216,000 respondents; 25 minutes per response.

Abstract: The data collected in this survey will enable NSF to partially fulfill the requirement to serve as a clearinghouse for information on the scientific and technical population of the U.S. That information allows for policy and planning activities by officials of government, private industry and academic institutions.

Dated: September 28, 1992.

Herman G. Fleming,

NSF Reports Clearance Officer.

[FR Doc. 92–24015 Filed 10–2–92; 8:45 am]

BILLING CODE 7555–01–M

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit application received under the Antarctic Conservation Act of 1978, Public Law 95–451.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 1, 1992. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Thomas F. Forhan at the above address or (202) 357–7817.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States Citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is as follows:

1. *Applicant:* Bill J. Baker, Department of Chemistry, Florida Institute of Technology, 150 West University Blvd., Melbourne, FL 32901.

Activity for Which Permit Requested: Introduction of non-indigenous species into Antarctica. The applicant requests a permit to bring samples of four non-pathogenic microorganisms to McMurdo: Vibrio alginelyticus, Staphylococcus aeueus, Klebsiella pheumenial and Serratia rubidae. The samples will be used to perform antimicrobial assays on extracts from marine invertebrates. Microorganisms will be handled using sterile techniques and will be disposed of by sterilization at the conclusion of the study.

Location: McMurdo Station, Antarctica.

Date: 11/5/92–2/28/93

Thomas F. Forhan,

Permit Office, Division of Polar Programs.

[FR Doc. 92–24014 Filed 10–2–92; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Second Quarter CY 1992; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). During the second quarter of CY 1992, the following incidents at NRC licensees were determined to be abnormal occurrences (AOs) and are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol. 15, No. 2 ("Report to Congress on Abnormal Occurrences: April–June 1992"). This report will be available at the NRC's Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC 20555 about three weeks after the publication date of this **Federal Register** Notice.

Nuclear Power Plants

92–4 Loss of High-Head Safety Injection Capability at Shearon Harris Nuclear Power Plant

One of the AO reporting guidelines notes that a major degradation of essential safety-related equipment can be considered an abnormal occurrence. In addition, another AO reporting guideline notes that major deficiencies in management controls can be considered an abnormal occurrence.

Date and Place: April 3, 1992, Shearon Harris Unit 1, a Westinghouse-designed pressurized-water reactor, operated by Caroline Power & Light Company and located in Wake County, North Carolina.

Nature and Probable Consequences: While the reactor was shut down for refueling activities, the licensee observed a degradation of piping and relief valves used in the high-head safety injection (HHSI) system (see Figure 1).

BILLING CODE 7590–01–M

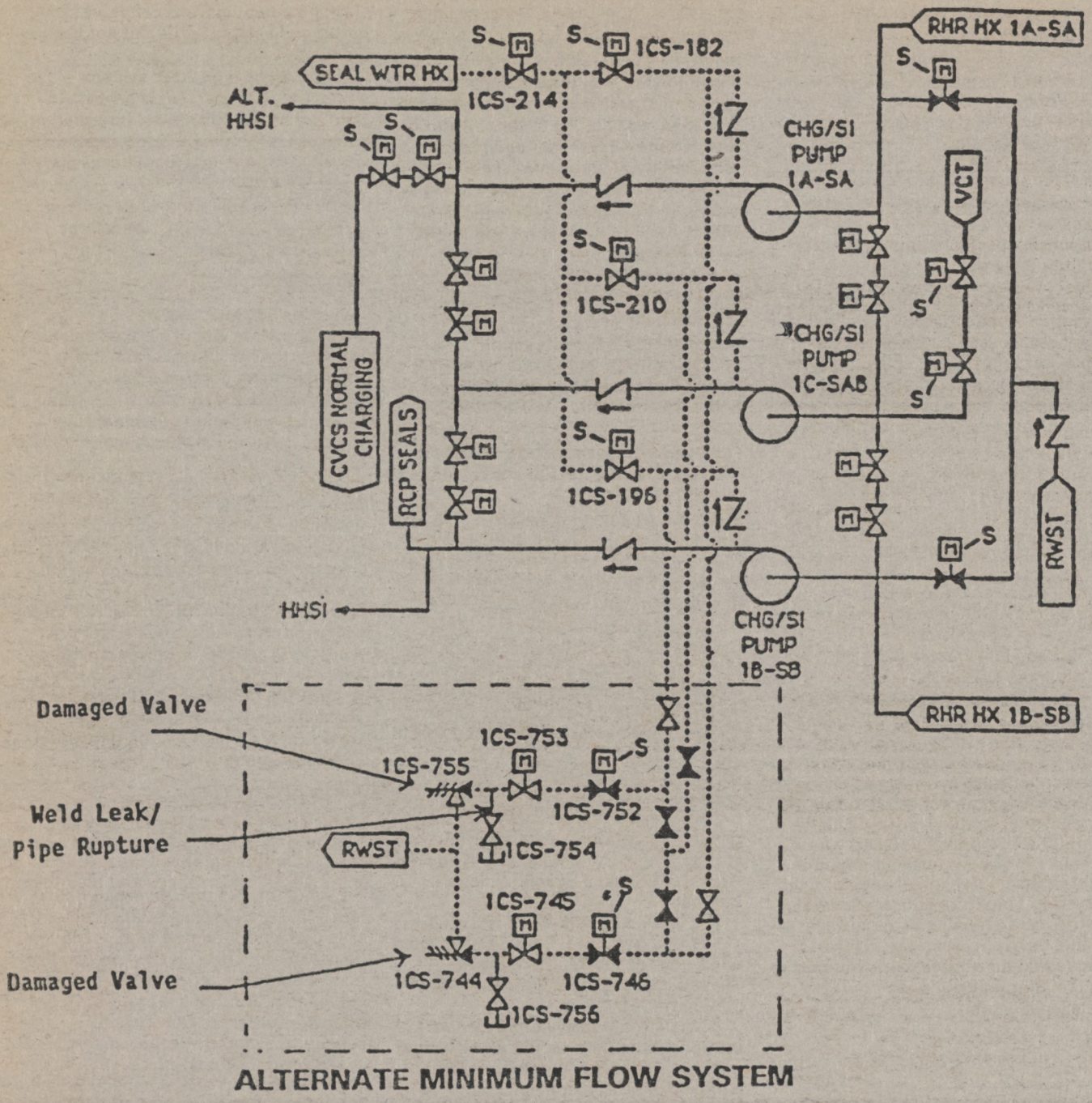


Figure 1
Shearon Harris High Head Safety Injection System

BILLING CODE 7590-01-C

This degradation was reported initially on April 3, 1991, by the licensee as adversely impacting the performance of the system during the previous operating cycle should it have been required to operate and deliver water to the reactor coolant system. The flow rate of water required to be going into the reactor system to mitigate design basis accidents assumed in the licensing analysis would not have been attained because a significant amount of safety injection flow would have been diverted by the piping failure and early relief valve opening. Subsequent to the initial assessment of the event, the event was analyzed by the NRC's Accident Sequence Precursor Program and the conditional core damage probability was estimated to be 6×10^{-3} for a particular set of conditions. The estimate is based upon the unavailability of the HHSI for a year prior to discovery. This value is indicative of an event with safety significance.

In 1992, after receiving preliminary notification of the core damage probability, an NRC inspection team was sent to the Shearon Harris site to review the circumstances leading to the event, the event itself, the licensee's corrective actions, and the safety significance of the event. A meeting with the licensee to discuss the event and collect additional information was held on August 20, 1992.

The degraded piping and relief valves are part of a subsystem that provides protection against the possibility of operating the charging/safety injection pumps against a reactor system pressurized above the pump discharge pressure by providing a flow path via the relief valves to the refueling water storage tank; the subsystem is referred to as the alternate minimum flow (AMF) system (see Figure 1). This subsystem is designed to pass flow only when the pump discharge pressure is above the lift setpoint of 230+/−69 psig for relief valves ICS–744 and ICS–755. Extended operation of the pumps with no net flow can cause damage and thereby preclude achieving the safety function flow rate at a later time. The AMF system was installed as part of the original facility prior to receiving an operating license. The design was deficient in that the physical layout of the AMF piping permits air to be trapped upstream and downstream of the relief valves when the valves are removed and reinstalled in the system. The upstream isolation valves ICS–746 and ICS–752 remain closed until a safety injection signal is received. This prevents water from refilling this piping. Also, piping upstream of the relief valves does not have high point vents for removing the trapped air. Water hammer events most likely have occurred as a result of a transient with the presence of trapped air.

The licensee identified the following damage to the AMF:

(1) Relief valve ICS–744 had a broken bellows and a cracked spring, and was found to have a reduced relief setpoint of 1100 psig.

(2) Relief valve ICS–755 had a broken bellows. Valve seat leakage prevented determining its setpoint with the available equipment.

(3) The piping connection upstream of ICS–754 failed as a result of a water hammer during engineered safety feature (ESF) testing. A small leak had previously existed in this weld, and was scheduled for repair during the 1991 refueling outage.

Cause or Causes: The degradation of the AMF relief valves and piping was the result of a design change that had implications that were not understood at the time of installation. Subsequent inadequate root cause determinations of recurrent water hammer events are believed to have permitted equipment to be degraded/damaged to the extent that the HHSI function would not be fulfilled.

Actions Taken to Prevent Recurrence

Licensee: The licensee has taken corrective actions by revising plant procedures to require the piping upstream of the relief valves to be refilled prior to installation of the relief valves and vented through the relief valves by hydraulic pressure to eliminate the air. They have also repaired the damage identified above. The licensee is currently evaluating the potential for water hammer downstream of the relief valves.

NRC: A special inspection team was sent to the Shearon Harris site to review the event. The team determined that several water hammer events could have occurred in the AMF system over the past 6 years. They concluded that the water hammer events likely occurred during ESF testing and during ESF system actuations when the pumps pressurized the AMF system piping which contained air. In addition, the following AMF system design weaknesses at Shearon Harris were identified:

(1) The potential for water hammer events upstream and downstream of the relief valves had not been analyzed.

(2) The AMF system piping had not been analyzed for transient or water hammer loads.

(3) The potential for relief valve chatter and setpoint drift had not been analyzed.

Similar damage to AMF system components has previously been identified at other facilities. Information Notice 92–61, "Loss of High Head Safety Injection," was issued to all licensees August 20, 1992.

The event is still under staff review. The NRC will review the inspection team's findings and will take action, as appropriate.

* * * * *

Other NRC Licensees (Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

92–5 Medical Therapy Misadministration at Beth Israel Hospital in Passaic, New Jersey

One of the AO reporting guidelines notes that a therapeutic dose that is less than 0.5 times the prescribed dose can be considered an abnormal occurrence.

Date and Place: August 23, 1990; Beth Israel Hospital; Passaic, New Jersey. During a routine inspection conducted on May 22, 1992, it was discovered that the therapeutic misadministration, as well as an overexposure to a radiation worker's hand, had not been reported to the NRC.

Nature and Probable Consequences: On August 23, 1990, a patient was scheduled to have an endobronchial implant procedure that required two ribbons containing a total of 35 iridium-192 seeds (68.54 millicuries) to be implanted into the patient. One ribbon contained 20 iridium seeds and the other contained 15 iridium seeds. The medical physicist gave the attending physician the wrong end (portion that does not include radioactive sources) of one of the two ribbons and the physician inserted the wrong end into the patient. The other ribbon containing 20 iridium-192 seeds was inserted correctly. The remaining extra lengths of these ribbons were cut off by the physician and given to the medical physicist. The medical physicist, assuming that these pieces of ribbons contained no radioactive material, coiled them and held them in her hand. One of these pieces contained 15 iridium-192 seeds (29.37 millicuries).

The medical physicist, following the completion of the procedure, discarded these pieces of ribbons into a waste basket located in a waiting room across from the patient's room thus creating a radiation dose rate of up to approximately 63 millirems per hour in an unrestricted area. This dose rate was well above the regulatory limit of 2 millirem in any one hour for unrestricted

areas. The implant was performed at 2:30 p.m. and the patient was scheduled to have a dose of 1500 rads. The physician decided to remove the ribbons from the patient earlier than planned because the dose rate was higher than what he normally administers. The ribbons were removed at 8:30 p.m. on August 23, 1990. Neither the medical physicist nor the hospital's Radiation Safety Officer (RSO) was present during the removal procedure.

The following morning at approximately 8:30 a.m. the medical physicist inventoried the sources removed from the patient and found that one of the ribbons contained no seeds. She immediately informed the RSO, who conducted a search for the missing radioactive material and at approximately 11 a.m. found the two pieces of ribbon in the waste basket. The licensee determined that the dose to the hand of the medical physicist was approximately 272 rads assuming that she held the ribbon containing iridium-192 seeds in her hand for about 5 minutes. The physician stated that the patient received a dose of approximately 400 rads (which was only about 50 percent of the intended dose). No make up dose was given to the patient. Neither the therapeutic misadministration nor the overexposure to the physicist's hand was reported to the NRC.

Cause or Causes: Neither the medical physicist nor the physician performed a survey of the ribbons before implanting into the patient. The licensee did not inventory the sources promptly after removal from the patient. Also, the licensee failed to follow established procedures involving the removal of temporary implants in that the RSO or his designee was not present during the removal of temporary implants from the patients.

Actions Taken to Prevent Recurrence

Licensee: The licensee's corrective actions include a mandatory requirement that the RSO or his designee must be present during all implant and removal of radioactive materials. The management of the licensee is now more deeply involved in the radiological safety affairs. The licensee is conducting an audit of its radiation safety program by an independent person.

NRC: NRC Region I inspectors continued the inspection of the circumstances surrounding this misadministration on June 2, 1992. Numerous apparent violations were identified. A Confirmatory Action Letter was issued on June 5, 1992. An Enforcement Conference was held with the licensee in Region I on June 25, 1992, to discuss the violations and the corrective actions proposed and implemented by the licensee.

A Notice of Violation and Proposed Imposition of Civil Penalties in the amount of $13,500 was sent to the licensee on August 7, 1992. The violations include: the overexposure of the hand of the medical physicist; the failure to perform a survey which directly contributed to the misadministration and the overexposure; the failure to report the misadministration and overexposure to the NRC, as well as the failure to report the misadministration to the patient's referring physician; and a breakdown in control of licensed activities of the facility. The violations associated with the overexposure and the failure to perform a survey were classified in the aggregate as a Severity Level II problem (on a scale in which Severity Levels I through V are the most and least significant, respectively), and assessed a civil penalty of $6,000. The violations of reporting requirements were classified in the aggregate as a Severity Level III problem and assessed a civil penalty of $3,750. The violations associated with the breakdown in control of licensed activities were classified in the aggregate as a Severity Level III problem and assessed a civil penalty of $3,750.

* * * * *

92–6 Medical Therapy Misadministration at Hospital Metropolitano in Rio Piedras, Puerto Rico.

One of the AO reporting guidelines notes that a therapeutic exposure to a part of the body not scheduled to receive radiation can be considered an abnormal occurrence.

Date and Place: March 24–25, 1992: Hospital Metropolitano; Rio Piedras, Puerto Rico.

Nature and Probable Consequences: On April 8, 1992, the licensee informed the NRC that on March 24–25, 1992, a brachytherapy misadministration occurred involving a patient receiving a therapeutic dose to the wrong part of the body.

The misadministration occurred when incorrect, no-longer-in-use, cesium-137 sources were placed in a brachytherapy applicator and administered to the patient. Because all the sources were smaller in diameter than the intended sources, they slipped from the prescribed position and irradiated normal tissue not intended to be irradiated. The applicator was loaded by a technologist who had never performed the procedure. The technologist was supervised by a technologist who had not performed the procedure in eight years, when the incorrect sources were in active use. The incorrect sources were discovered at the midpoint of the treatment by the licensee's medical physicist during an unplanned training session for a new physicist. The incorrect sources were promptly removed from the patient and the treatment restarted and completed as directed by the authorized user.

The licensee estimated the dose to normal tissue was approximately 400–500 rads. The licensee advised the NRC that no adverse effects to the patient are anticipated as a result of the misadministration.

Cause or Causes: The causes are attributed to the licensee's failure to: (1) Properly train individuals handling brachytherapy sources, (2) adequately implement a Quality Management Program (QMP), (3) develop and implement adequate QMP procedures, and (4) properly label the storage vault for the brachytherapy sources.

Actions Taken to Prevent Recurrence

Licensee: The licensee's corrective actions included revision of the QMP policies and procedures, training all supervised individuals on brachytherapy procedures and in the revised QMP, arranging safe storage for the sources no longer in use, posting a map of the source storage vault indicating the type of source at each storage point, and enhancing source accountability practices.

NRC: Region II reviewed the circumstances associated with the misadministration and the licensee's immediate corrective actions during a reactive inspection on April 10, 1992, and a follow-up inspection on April 22, and 23, 1992, which included NRC consultants in the areas of medical physics, oncology, and risk assessment. NRC Region II conducted an Enforcement Conference with the licensee on May 20, 1992, to discuss the event. A notice of Violation and Proposed Imposition of Civil Penalty in the amount of $2,500 was issued on June 26, 1992.

This action was based on two violations that contributed to the brachytherapy misadministration: (1) Failure of the QMP to include written policies and procedures to verify the use of correct brachytherapy sources and identify any unintended deviations, and (2) failure to instruct supervised individuals in the principles of radiation safety and the QMP. Each violation was categorized at Severity Level III on a

scale in which Severity Levels I through V are the most significant and least significant, respectively. Each violation was assessed a proposed civil penalty of $1,250. Six other violations (including the failure to notify the NRC within 24 hours after discovery of a therapy misadministration) were also cited at either Severity Level IV or V and involved the licensee's radiation safety program.

* * * * *

92–7 Medical Diagnostic Misadministration at Baystate Medical Center, Incorporated, in Springfield, Massachusetts

One of the AO reporting guidelines notes that administering a diagnostic dose of a radiopharmaceutical that is greater than five times the prescribed dose can be considered an abnormal occurrence.

Date and Place: May 19, 1992; Baystate Medical Center, Incorporated (Baystate); Springfield, Massachusetts.

Nature and Probable Consequences: On May 20, 1992, the licensee notified the NRC by telephone that a medical misadministration involving iodine-131 (I–131) radiopharmaceuticals had occurred at the licensee's facility the previous day. A diagnostic dose was intended; however, a therapeutic dose was administered. The details of the event are described below.

A nurse from the referring endocrine clinic called Baystate to make an appointment for a patient for a thyroid scan and I–131 uptake study. Baystate's departmental procedure for a thyroid scan and I–131 uptake is to perform the study using 16 microcuries of I–131 and 10 millicuries of technetium-99m. A whole body scan requires that approximately 4 millicuries of I–131 be given to the patient. Apparently, the order was entered in the patient's scheduling chart as a whole body scan rather than the thyroid scan and I–131 uptake study which was intended. Questions were raised on several occasions by licensee personnel because the patient was diagnosed with an enlarged thyroid and generally an I–131 whole body scan is not indicated for this diagnosis. Also, an authorized user was not consulted to review the study and prepare a written directive prior to the administration of greater than 30 microcuries of I–131 as required by 10 CFR 35.32. A nuclear medicine technologist administered 4.1 millicuries of I–131 for a whole body scan without following the department's procedures for administration of I–125 or I–131. The licensee evaluated the dose to the patient's thyroid to be approximately 14,300 rads based on an uptake of 66 percent and the dose to the whole body to be approximately 6.25 rads.

Cause or Causes: It was determined that one of the causes of the misadministration was a miscommunication between staff at both the referring endocrine clinic and Baystate. Other causes were failure of the staff at Baystate to follow regulatory procedures involving radioiodine doses greater than 30 microcuries which require that an authorized user prepare a written directive prior to the administration. Nuclear Medicine Departmental procedures also require that when an order for a requested study is unclear or illegible, the referring physician be contacted prior to the performance of the study.

Actions Taken to Prevent Recurrence

Licensee: The licensee's corrective actions included: (1) Instruction of nuclear medicine staff in the department procedures and regulatory requirements for radioiodine studies; (2) preparation, prior to the administration, of a written directive by the Director of Endocrine (an authorized user), or a designated authorized user before any iodine study using greater than 30 microcuries is performed; (3) prompt transmittal of written requests for nuclear medicine studies from the clinics to the Baystate Medical Center, Nuclear Medicine Division, in order to compare the request to the computer entry prior to the administration; and (4) review of this patient's progress once every six weeks for three months.

NRC: An NRC Region I inspector conducted an inspection on May 27 and 28, 1992, to determine the circumstances associated with the misadministration. An NRC medical consultant worked with the licensee to provide a clinical assessment of the misadministration. Although the medical consultant calculated the thyroid dose to be considerably less than the licensee's estimate, his evaluation of the event and consequences to the patient were similar to the licensee's evaluation. They were in agreement that because the patient was diagnosed as having Graves' disease, the ultimate therapy would be treatment with about 10 millicuries of iodine-131 (compared to about 4 millicuries that were mistakenly administered). Therefore, the patient did not suffer adverse health effects from the misadministration worse than those normally associated with treatment of Graves' disease.

The NRC inspection identified two apparent violations of NRC requirements: (1) Failure of authorized user to prepare a written directive, and (2) failure to follow procedures. An enforcement conference was held on June 23, 1992. Enforcement action is pending.

* * * * *

92–8 Medical Therapy Misadministration at The Christ Hospital in Cincinnati, Ohio

One of the AO reporting guidelines notes that a therapeutic dose that is less then 0.5 times the prescribed dose can be considered an abnormal occurrence. In addition, some tissue received considerably more radiation than it would have had the treatment been as prescribed.

Date and Place: May 29, 1992; The Christ Hospital; Cincinnati, Ohio.

Nature and Probable Consequences: On May 29, 1992, the licensee performed an implant of radiation seeds for treatment of a patient's prostate cancer. The patient had previously received radiation treatment to the prostate using a linear accelerator. The implant treatment plan called for placement of 58 seeds, each containing 0.31 millicuries of iodine-125. The seeds were to be implanted in the prostate using needles guided by an ultrasound image. The implanted seeds were to deliver a dose of 12,000 rads to the prostate.

The 58 seeds were implanted, but a subsequent computerized tomographic scan showed that 21 seeds were implanted in tissue surrounding the prostate rather than the intended sites. Two seeds were eliminated with the patient's urine. The licensee calculated that the mispositioning of the seeds resulted in the patient receiving a 5,000 rad dose to the prostate rather than the intended 12,000 rad dose.

The principal consequence of this misadministration is the potential effects of the underdosage to the prostate. In addition, tissue surrounding the prostate received a greater radiation dose than intended. The prescribing physician concluded that the delivered dose from the implanted seeds and from the previous linear accelerator treatment was sufficient. An NRC medical consultant, retained to evaluate the circumstances and response to the misadministration, noted: "Tumor recurrence is the greatest risk, and it will be monitored closely." The consultant also concluded that there was not a high probability of radiation damage to the rectum, which would be the area of principal concern.

Cause or Causes: The misadministration resulted from the difficulties in the ultrasound placement technique. The ultrasound image is difficult to interpret in guiding the

placement of the seeds with the implanting needles. The prescribing physician, who is the Authorized User in the NRC license, had been trained and certified in the ultrasound guided implant technique, but had not actually performed the procedure.

Actions Taken to Prevent Recurrence

Licensee: The physicians recommended several improvements in the implanting technique, including more detailed pretreatment planning, steps to improve the quality of the ultrasound image, and enhancements to the seed positioning technique.

NRC: NRC Region III conducted a special inspection June 17–18, 1992, to review the circumstances of the misadministration and to evaluate the licensee's follow-up activities. No violations of NRC requirements associated with the misadministration were identified. The NRC also retained a medical consultant to review the case.

* * * * *

Dated at Rockville, MD this 29 day of September 1992.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 92–24040 Filed 10–2–92; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31245; File No. SR–Amex–92–01]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing of Amendments to and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Listing of Options on the Amex Biotechnology Index and Long-Term Options on a Reduced Value Biotechnology Index

September 28, 1992.

I. Introduction

On January 3, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the Amex Biotechnology Index ("Biotechnology Index" or "Index"). This order approves the Exchange's proposal.

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1992).

The proposed rule change was published for comment in Securities Exchange Act Release No. 30363 (February 10, 1991), 57 FR 6146 (February 20, 1992).[3] Two comment letters were received on the proposed rule change.[4]

[3] The Amex has filed several amendments to the proposal. First, on March 16, 1992, the Amex amended its proposal to provide that no stock can be included in the Index unless its average monthly trading volume over the previous six months is greater than 500,000 shares ("Amendment No. 1"). See letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Howard L. Kramer, Assistant Director, Division of Market Regulation ("Division"), SEC, dated March 16, 1992 ("March 16 Letter"). Second, on March 24, 1992, the Amex amended the proposal to provide that at least 90% of the Index's numerical value, at the Index's quarterly rebalancing, must be represented by stocks that meet the current options listing standards ("Amendment No. 2"). Third, on March 30, 1992, the Amex amended the filing to indicate that four component securities had been deleted and replaced. The amendment also provides that the Exchange will submit a rule filing pursuant to section 19(b) of the Act to continue listing the Index options if the number of component issues changes to either less than 10 or more than 20 ("Amendment No. 3"). See letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated March 30, 1992. Fourth, on April 21, 1992, the Amex amended the filing to provide that the final settlement value of expiring Index options will be based on the closing prices of the component securities on the trading day prior to expiration, instead of their opening prices ("Amendment No. 4"). See letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated April 21, 1992. Fifth, on May 8, 1992, the Amex amended the filing to provide for the listing of long-term options on the full value Biotechnology Index or on a reduced-value Index that will be computed at one-tenth the value of the Index ("Amendment No. 5"). See letter from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated May 8, 1992. Sixth, on September 3, 1992, the Amex amended the proposal to revert back to the original proposal to use an opening price settlement method for expiring Index options ("Amendment No. 6"). See letter from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated September 3, 1992.

[4] The Commission received comments from the New York Stock Exchange, Inc. ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"). See letter to Jonathan G. Katz, Secretary, SEC, from Joseph R. Hardiman, President, NASD, dated May 22, 1992, and letter to Jonathan G. Katz, Secretary, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated August 11, 1992.

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1992.

II. Description of Proposal

A. General

The Amex proposes to trade options on the Biotechnology Index, a new stock index developed by the Amex based on biotechnology industry stocks or American Depositary Receipts thereon ("ADRs") which are traded on the Amex, the NYSE, or are national market system securities traded through the facilities of the National Association of Securities Dealers Automated Quotation System ("NASDAQ-NMS"). The Amex also proposes to list either long term options on the full value Index or long-term options on a reduced value Index that will be computed at one tenth of the value of the Biotechnology Index ("Biotechnology LEAPS" or "Index LEAPS").[5] Biotechnology LEAPS will trade independent of and in addition to regular Biotechnology Index options traded on the Exchange.

B. Composition of the Index [6]

The Index contains securities of highly-capitalized companies in the biotechnology industry. The biotechnology industry includes companies whose primary business involves the use of biological processes to develop products or to provide services. Such processes include, but are not limited to, recombinant DNA technology, molecular biology, genetic engineering, monoclonal antibody-based technology, and lipid/liposome technology. Currently, the Index is based on 15 stocks in the biotechnology sector that trade on the NASDAQ.NMS system. The Exchange will use an "equal" dollar weighted method to calculate the Index.[7] As of September 28, 1992, the Index was at 144.

[5] LEAPS is an acronym for Long Term Equity Anticipation Securities.

[6] The Amex has provided two letters that provide additional data concerning the composition and design of the Index. See letters from Claire P. McGrath, Senior Counsel, Legal & Regulatory Policy Division, Amex, to Howard L. Kramer, Assistant Director, Division, SEC, dated March 10, 1992 and from Ellen T. Kander, Special Counsel, Derivative Securities, Amex, to Thomas Gira, Branch Chief, Options Regulation, SEC, dated September 9, 1992 ("September 9 Letter").

[7] See infra Section E entitled "Calculation of the Index" for a description of this calculation method.

As of August 31, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $8.36 billion to a low of $149 million, with the mean and median being $1.06 billion and $461 million, respectively. The market capitalization of all the stocks in the Index was $15.9 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 131.8 million shares to a low of 14.8 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $61.54 to a low of $7.48. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.2 million shares per day to a low of 103,600 shares per day, with the mean and median being 411,000 and 359,100 shares, respectively. Lastly, no one stock comprised more than 8.99% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 38.56% of the Index's value. The percentage weighting of the lowest weighted stock was 5.62% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 29.29% of the Index's value.[8]

C. Maintenance

The Index will be maintained by the Amex. The Amex may change the composition of the Index at any time to reflect the conditions in the biotechnology sector and to ensure that the component securities continue to represent the biotechnology industry. At any time when it is necessary to replace a stock or stocks in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the biotechnology sector and will take into account a stock's capitalization, liquidity, volatility and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the proposal provides that the Amex will submit a rule filing with the Commission pursuant to Section 19(b) of the Act.[9]

[8] See September 9 Letter, *supra* note 6.

[9] See Amendment No. 3, *supra* note 3.

D. Eligibility Standards for the Inclusion of Component Stocks in the Index

Exchange Rule 901C specifies criteria for the inclusion of stocks in an index on which options will be traded on the Exchange. Specifically, Rule 901C states that an index must have a minimum of five stocks, and any index with less than 25 component stocks may not include stocks traded on the Amex.[10] In addition, the proposal amends Exchange Rule 901C to require that at least 90% of the Index's numerical value, after the Index's quarterly rebalancing, be accounted for by stocks that meet the Exchange's options listing standards.[11]

In choosing among biotechnology industry stocks that meet the minimum criteria set forth in Rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of Rule 901C) or traded through NASDAQ–NMS. In addition, the proposal requires that the stocks included in the Index have an average monthly trading volume of not less than 500,000 shares (or ADRs) in the U.S. market over the previous six-month period.[12] Further, the Exchange intends to focus on stocks that have a minimum market value (in U.S. dollars) of at least $75 million.[13] Although the stocks currently selected for inclusion in the Index meet or surpass this $75 million capitalization requirement, the Exchange intends for this standard to be used as a guideline only and reserves the right to include stocks in the Index that may not meet this guideline, but, nevertheless, meet the minimum requirements set forth in Amex Rule 901C.

[10] Accordingly, the Biotechnology Index as currently constituted does not include Amex-traded stocks. The Amex, however, has submitted a proposal, that, among other things, revises Amex Rule 901C to remove the limitation on the number of Amex stocks that can be included in an index which underlies a stock index option traded on the Exchange. Specifically, the proposal would allow, among other things, Amex-listed stocks to be included in Amex-traded index options that are comprised of less than 25 stocks. See Securities Exchange Act Release No. 30356 (February 10, 1992), 57 FR 5497.

[11] See Amendment No. 2, *supra* note 3. The Amex's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) The public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. See Amex Rule 915.

[12] See Amendment No. 1, *supra* note 3.

[13] For ADRs, the proposal provides that the ADR price and total worldwide shares outstanding, on an ADR-equivalent basis, will be used for purposes of determining trading volume and market value.

E. Calculation of the Index

The Index will be calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities are represented in approximately "equal" dollar amounts in the Index. The Exchange believes that this method of calculation is important since even among the largest companies in the biotechnology industry there is a great disparity in size. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the biotechnology industry, Amgen Inc. currently represents over 50% of the aggregate market value of the Index. In addition, while currently there is not as much disparity in the prices of the stocks included in the Index, using a price-weighted method to calculate the Index's value is not the Exchange's preferred method since the prices of such stocks can fluctuate significantly as a result of a corporate action (*e.g.*, a stock split or distribution), rather than as a result of stock performance, causing the relative weightings of the stocks within the Index to fluctuate significantly.

In calculating the "equal dollar weighting" of component stocks, the Amex, using closing prices on October 18, 1991, calculated the number of shares that would represent an investment of $10,000 in each of the stocks contained in the Index (to the nearest whole share). The value of the Index equals the current market value (*i.e.*, based on U.S. primary market prices) of the assigned number of shares of each of the stocks in the Index portfolio divided by the current Index divisor. The Index divisor was initially calculated to yield a benchmark value of $200.00 at the close of trading on October 18, 1991. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio is adjusted by changing the number of shares of each component stock so that each company is again represented in $10,000 "equal" dollar amounts. If necessary, a divisor adjustment is made to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The number of shares of each component stock in the Index portfolio will remain fixed between quarterly reviews except in the event of certain types of corporate actions, such as the payment of a dividend, other than an ordinary cash dividend, stock distributions, stock splits, reverse stock

splits, rights offerings, or a distribution, reorganization, recapitalization, or some such similar event with respect to a component stock. The number of shares will also be adjusted in the event of a merger, consolidation, dissolution or liquidation of an issuer of a component stock. When the Index is adjusted between quarterly reviews, the number of shares of the relevant security in the portfolio will be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the new component stock to the nearest whole share. In both cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated on a real-time basis to market information vendors via the Options Price Reporting Authority.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of securities traded through the NASDAQ–NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for purposes of determining the settlement value of the Index, the Amex will wait until the end of the trading day on expiration Friday.[14]

F. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options.[15] Standard options trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply to the contracts. Under Amex Rule 903C, the Exchange intends to list up to three near-term calendar months and two additional calendar months in three-month intervals in the January cycle. The Exchange also intends to list long-term options series, having up to thirty-six months to expiration, on either the full value Biotechnology Index or on a reduced value Biotechnology Index. Strike price interval, bid/ask differential and price continuity rules will not apply to the trading of Biotechnology LEAPS until their time to expiration is less than twelve months.[16]

The options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Since options on the Index will settle based upon the opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

G. Listing of Long-Term Options on the Full Value or Reduced Value Biotechnology Index

The proposal provides that the Exchange may list long-term index options that expire from 12 to 36 months from listing on the full value Biotechnology Index or a reduced value Index that will be computed at one-tenth the value of the full value Index. The current and closing Index value for reduced value Biotechnology LEAPS will be computed by dividing the value of the full value Index by 10 and rounding the resulting figure to the nearest one-hundredth. For example, a Index value of 185.46 would be 18.55 for the Index LEAPS and 185.43 would become 18.54. The reduced value LEAPS will have a European-style exercise and will be subject to the same rules that govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures. The strike price interval for the reduced value Index LEAPS will be no less than $2.50 instead of $5.00.

In addition, the proposal provides that full value or reduced value Biotechnology LEAPS will be issued at no less than six month intervals and that new strike prices will either be near or bracketing the current Index value.

H. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1), the proposal provides that Exchange rules that are applicable to the trading of narrow-based index options will apply to the trading of options on the Index. Specifically, Exchange rules governing margin requirements,[17] position and exercise limits,[18] and trading halt procedures [19] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that positions in full value and reduced value Index options will be aggregated for position and exercise limit purposes. Specifically, under the proposal, ten reduced value contracts will equal one full value contract.

I. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in full value and reduced value Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[20]

III. Summary of Comments

The Commission received comments from the NYSE and the NASD.[21] Both

[14] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the Amex will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[15] A European-style option can be exercised only during a specified period before the option expires.

[16] See Securities Exchange Act Release No. 25041 (October 16, 1987), 52 FR 40008 (October 26, 1987) (order approving SR–Amex–87–22).

[17] Pursuant to Amex Rule 462(d)(2)(D)(iv), the margin requirements for the Index options will be: (1) for each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

[18] Pursuant to Amex Rules 904C and 905C, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 904C and 905C, that a lower limit is warranted.

[19] Pursuant to Amex Rule 918C, the trading of Index options will be halted or suspended whenever trading in underlying securities whose weighted value represents more than 10% of the Index value are halted or suspended.

[20] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. See Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[21] *See* note 4, *supra*.

commentators believe that the settlement of derivative stock index products, such as stock index options, should be based on opening prices rather than closing prices. The commentators believe that the use of an opening price settlement method provides a means of minimizing excess market volatility that has been associated with the expiration of stock index derivative products as market participants unwind related derivative and stock positions. Specifically, the commentators note that an opening price settlement method permits buying and selling interests in the underlying securities to be balanced at the opening and gives market participants the opportunity to adapt to the opening prices, and trade out of their positions, throughout the remainder of the trading day. The concerns raised by these commentators are no longer applicable to the current proposal since the Amex has amended its proposal to provide that expiring Index options will settle based on opening prices.

IV. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[22] Specifically, the Commission finds that the trading of Biotechnology Index options, including full value and reduced value Biotechnology LEAPS, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the biotechnology industry. The Commission also believes that the trading of the Index options and Index LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that the Index LEAPS, that will be traded on an index computed at one tenth the value of the Biotechnology Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long term market moves at a reduced cost.

The trading of options on the Biotechnology Index and on a reduced value Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed below, that the Amex adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Index is narrow-based because it is only comprised of fifteen stocks, all of which are within the biotechnology industry. The Commission further finds that the reduced value Biotechnology Index is also narrow-based because it is comprised of the same component securities as the Index and merely dividing the Biotechnology Index value by ten will not alter the basic character of the Index. Accordingly, the Commission believes it is appropriate for the Amex to apply its rules governing narrow-based index options to trading in the Index options.[23]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 411,000 and 359,100 shares, respectively.[24] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $8.36 billion to a low of $149 million, with the mean and median being $1.06 billion and $461 million, respectively. Third, although the Index is only comprised of fifteen stocks, no one particular stock or group of stocks dominates the Index. Specifically, no one stock comprises more than 8.99% of the Index's total value and the percentage weighting of the five largest issues in the Index accounts for 38.56% of the Index s value. Fourth, all of the component stocks in the Index currently are eligible for options trading.[25] Finally, the Commission finds that the requirement that the Amex submit a rule filing pursuant to Section 19(b) of the Act prior to expanding the Index to greater than twenty stocks or reducing the Index to less than ten stocks will protect against the design of the Index being materially changed without Commission review and approval.

Accordingly, the Commission believes it is unlikely that attempted manipulations of the prices of the issues in the Index would affect significantly the Index's value.

In addition, the Commission does not believe that the fact that the Index is equal dollar weighted instead of market weighted or price weighted results in the Index being readily susceptible to manipulation. Because the use of an equal dollar-weighting method could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization weighted or price-weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The Amex, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or floats. First, after each quarterly rebalancing, the Amex proposal requires that 90% of the weighting of the Index be accounted for by stocks that are eligible for standardized options trading. The Commission believes that this requirement will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, the proposal provides that only stocks with an average monthly trading volume of not less than 500,000 shares over the previous six months will be eligible for inclusion in the Index. This trading volume requirement is considerably higher than the requirement contained in the options listing standards for individual equity options. Third, the Commission believes that the quarterly rebalancing of the Index will further serve to reduce the susceptibility of the Index to manipulation. Through the quarterly rebalancing, any "overweight" stock[26] will be brought back into line with the other stocks, thus ensuring that less capitalized stocks do not become excessively weighted. Fourth, because the Index is narrow-based, the applicable position and exercise limits

[22] 15 U.S.C. 78f(b)(5) (1988).

[23] *See supra* notes 17 through 19, and accompanying text.

[24] In addition, for the six-month period between March and August 1992, all of companies within the Index had an average daily trading volume greater than 103,600 shares per day. See September 9 Letter, *supra* note 6.

[25] For a description of the options listing standards, see *supra* note 11.

[26] A stock would be "overweight" if its weight in the Index were greater than the average weight of all of the stocks in the Index. This would occur, for example, if the price of a component stock significantly increased relative to the other stocks in the Index during a particular quarter and prior to the rebalancing.

and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the Amex represents that it will make every effort to add new stocks to the Index that are representative of the biotechnology sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Biotechnology Index options (including full value and reduced value Biotechnology LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and Index LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the Amex, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Biotechnology Index options and Index LEAPS.

The Commission also has some concern that the quarterly rebalancing of the Index could result in investor confusion because the number of stocks of each issuer in the Index could fluctuate each quarter. Such fluctuation, among other things, could make it difficult for investors to maintain any corresponding cash positions in the stocks underlying the Index. Based on data provided by the Amex, however, the Commission does not believe that the quarterly rebalancing will result in dramatic changes in the weightings of the component securities. Specifically, the Amex data showed that the weight of each stock changed on average only about 2% each quarter when measured over a two year period.[27] Moreover, the Commission believes the benefits to be derived from using a quarterly rebalancing will more than offset the potential confusion for investors. Specifically, the Commission believes the quarterly rebalancing will ensure that no stock or group of stocks will have a disproportionate impact on the Index. The Amex data also indicated that rebalancing the Index less frequently will result in more dramatic changes in the weightings of the component securities.[28]

Finally, the Amex has developed procedures to ensure that investors are adequately notified of any changes due to the quarterly rebalancing of the Index.[29] In particular, the Amex represents that it will send informational circulars to its members notifying them of any changes to the Index as a result of the quarterly rebalancing. In addition, the Amex has stated that it will include a description of the equal dollar weighting methodology in all its promotional and marketing materials for the Index. The Commission believes these procedures should help to avoid any investor confusion, while providing important information about the special characteristics of the Index.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the Amex and the NASD, which is the primary market for all of the Index's component stocks, are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[30]

D. Market Impact

The Commission believes that the listing and trading of Biotechnology Index options, including full value and reduced value Index LEAPS on the Amex will not adversely impact the underlying securities markets. First, as described above, due to the "equal-dollar" weighting method, no one stock or group of stocks dominates the Index. Second, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly capitalized stocks. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and Index LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Biotechnology Index options (including full value and reduced value Index LEAPS) based on the opening prices of component securities is reasonable and consistent with the Act because it may contribute to the orderly unwinding of Index option positions upon expiration.

The Commission finds good cause for approving Amendment Nos. 1, 2, 3, and 5[31] to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. First, the modifications to the proposal effected by Amendment Nos. 1 and 2 are designed to reduce the likelihood that the Index could be susceptible to manipulation. In particular, Amendment No. 1 requires that at least 90% of the Index's numerical index value, after the quarterly rebalancing, must be accounted for by stocks that meet the options listing standards. Amendment No. 2 requires that securities eligible for inclusion in the Index must have sustained a monthly trading volume of not less than 500,000 shares over the previous six-month period. The Commission believes that these amendments strengthen the Index and do not raise new issues.

Second, Amendment No. 3 notified the Commission of a change in the composition of the Index. Because the filing is designed to ensure that the

[27] *See* Amendment No. 1, *supra* note 3.

[28] *Id.*

[29] *Id.*

[30] *See supra* note 20. Although the Index currently does not contain ADRs, the proposal provides that the Index could contain ADRs representing biotechnology industry stocks. If the Amex were to change the composition of the Index so that greater than 20% of the Index was represented by ADRs whose underlying securities were not subject to an effective surveillance sharing arrangement with the Amex, then it would be difficult for the Commission to reach the conclusions reached in this order and the Commission would have to determine whether it would be suitable to continue to trade options on the Index.

[31] Amendment No. 4 provided for a closing price settlement method for expiring Index options. This amendment was superseded by Amendment No. 6 which switched the settlement method back to the proposal as originally filed, using the opening sale prices for each of the Index's component securities. As discussed above, opening price settlement was part of the original proposal and was noticed for comment. No negative comments were received on this aspect of the proposal. *See* Section III, discussing two comment letters in support of an opening settlement method for the Index options.

Index is representative of the biotechnology industry, the Commission believes it raises no new regulatory issues. The amendment also provides that the Exchange must submit a rule filing pursuant to section 19(b) of the Act to continue listing the Index options if the number of component securities in the Index changes to either less than 10 or more than 20. The Commission believes that this requirement strengthens the Index and does not raise new issues.

Third, Amendment No. 5 provides for full value and reduced value Biotechnology LEAPS. Because the Biotechnology LEAPS will be subject to the same rules that apply to other index LEAPS traded on the Exchange and the index underlying the reduced value Biotechnology Index LEAPS is identical to the Index, the Commission believes that the provisions of Amendment No. 5 raise no new regulatory issues. Therefore, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment Nos. 1, 2, 3, and 5 to the Amex's proposal on an accelerated basis.

It Is Therefore Ordered, Pursuant to Section 19(b)(2) of the Act,[32] that the proposed rule change (SR-Amex-92-01) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[33]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24001 Filed 10-2-92; 8:45 am]

BILLING CODE 8010-01-M

[32] 15 U.S.C. 78s(b)(2) (1988).

[33] 17 CFR 200.30-3(a)(12) (1992).

[Release No. 34-31243; File No. SR-CBOE-91-51]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Filing of Amendments to and Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Listing of Options on the CBOE Biotech Index and Long-Term Options on a Reduced Value Biotech Index

September 28, 1992.

I. Introduction

On December 30, 1991, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to provide for the listing and trading of index options on the CBOE Biotech Index ("Biotech Index" or "Index"). This order approves the Exchange's proposal.

The proposed rule change was published for comment in Securities Exchange Act Release No. 30324 (January 31, 1992), 57 FR 4655 (February 6, 1992).[3] Two comment letters were received on the proposed rule change and are discussed in more detail below.[4]

II. Description of Proposal

A. General

Pursuant to Exchange Rule 24.2, the CBOE proposes to list and trade cash-settled, European-style [5] stock index options on an industry index, the Biotech Index. The CBOE also proposes to amend Exchange Rule 24.9 to provide for the listing of long-term, reduced-value index options that will be computed at one-tenth of the value of the Biotech Index ("BGX LEAPS").[6] BGX LEAPS will trade independent of and in addition to regular Biotech Index options traded on the Exchange.

B. Composition of the Index

The Index is based on 20 stocks in the biotechnology sector that trade on the American Stock Exchange ("Amex") or through the facilities of the National Association of Securities Dealers Automated Quotation System and are reported national market system securities ("NASDAQ/MMS").[7] Currently, seventeen of the stocks trade on NASDAQ/NMS and the remaining three are listed on the Amex. The Index is price-weighted [8] and is designed to

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b-4 (1992).

[3] The CBOE has filed several amendments to the proposal. First, on February 14, 1992, the CBOE amended the proposal to indicate that two securities in the Index, Genetics Institute, Inc. and Invacare, Inc., had been replaced by Immunomedics, Inc. and Amgen, Inc. See letter from Nancy Crossman, General Counsel, First Vice President, CBOE, to Howard Kramer, Assistant Director, SEC, dated February 13, 1992 ("Amendment No. 1"). Second, the proposal was amended on March 27, 1992, to clarify that, whenever it becomes necessary to replace a component security in the Index, the CBOE will ensure that after such change at least 90% of the weight of the Index is represented by stocks that are eligible for standardized options trading ("Amendment No. 2"). Third, the proposal was amended on April 8, 1992, to provide for the listing of long-term, reduced-value Index options that will be computed at one-tenth the value of the Biotech Index. The amendment also reorganized the CBOE's rules with respect to long-term options so that long-term equity options rules and long-term index options rules are separated ("Amendment No. 3"). Fourth, on July 31, 1992, the CBOE amended the proposal to indicate that four securities in the Index, Synergen, Cytogen, Calgene, and Bio-Technology General Corporation, had been replaced by SciMed Life Systems, St. Jude Medical, Nellcor, and Summit Technology ("Amendment No. 4"). Fifth, the proposal was amended on September 10, 1992, to provide that the final settlement value of expiring Index options will be based on the opening prices of the component stocks on the trading day prior to expiration, instead of their closing prices ("Amendment No. 5"). Sixth, the proposal was amended on September 24, 1992, to provide that the Exchange will submit a rule filing pursuant to Section 19(b) of the Act to continue listing the Index options if the number of component issues changes to either less than 10 or more than 30 ("Amendment No. 6"). In addition, the CBOE withdrew, from the proposal, a provision to trade capped options on the Index. See letter to Thomas Gira, Branch Chief, Options Regulation, Division of Market Regulation ("Division"), SEC, from Michael L. Meyer, Schiff, Hardin & Waite, dated September 21, 1992. Finally, the CBOE provided additional data concerning the composition of the Index. See letters to Howard L. Kramer, Assistant Director, Division, SEC, from Joseph Levin, Vice President, Research, CBOE, dated March 4, 1992 ("March 4 Letter") and to Thomas Gira, Branch Chief, Options Regulation, Division, SEC, from Joseph Levin, Vice President, Research, CBOE, dated September 10, 1992 (September 10 Letter").

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1992.

[4] The Commission received comments from the New York Stock Exchange, Inc. ("NYSE") and the National Association of Securities Dealers, Inc. ("NASD"). See letter to Jonathan G. Katz, Secretary, SEC, from Joseph R. Hardiman, President, NASD, dated May 22, 1992, and letter to Jonathan G. Katz, Secretary, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated August 11, 1992.

[5] A European-style option only can be exercised during a limited period of time before the option expires.

[6] LEAPS is an acronym for Long-Term Equity Anticipation Securities.

[7] Real-time last sale reporting recently has been extended to all securities traded over NASDAQ, however, NASDAQ/NMS securities, among other things, are subject to higher listing standards.

[8] The calculation of a price-weighted index involves taking the summation of the prices of the stocks in the index. In contrast, the calculation of a capitalization-weighted index involves taking the summation of the product of the price of each stock in the index and the shares outstanding for each issue.

represent medium and small-capitalization biotechnology stocks. The Index will be calculated real time using last sales prices and was set to a value of 100 onJanuary 2, 1991. As of September 18, 1992, the Index was at 145.09.

As of September 9, 1992, the market capitalizations of the individual stocks in the Index ranged from a high of $8.56 billion to a low of $138 million, with the mean and median being $960 million and $316 million, respectively. The market capitalization of all the stocks in the Index was $19 billion. The total number of shares outstanding for the stocks in the Index ranged from a high of 133.3 million shares to a low of 8.5 million shares. The average price per share of the stocks in the Index, for a six-month period between March and August 1992, ranged from a high of $60.48 to a low of $7.05. In addition, the average daily trading volume of the stocks in the Index, for the same six-month period, ranged from a high of 1.2 million shares per day to a low of 57,900 shares per day, with the mean and median being 363,454 and 335,635 shares, respectively. Lastly, no one stock comprised more than 13.73% of the Index's total value and the percentage weighting of the five largest issues in the Index accounted for 51.42% of the Index's value. The percentage weighting of the lowest weighted stock was 1.15% of the Index and the percentage weighting of the five smallest issues in the Index accounted for 7.75% of the Index's value.[9]

C. Maintenance

The Index will be maintained by the CBOE. The CBOE may change the composition of the Index at any time to reflect the conditions in the biotechnology sector and to ensure that the component securities continue to represent the biotechnology field. At any time when it is necessary to replace a stock or stocks in the Index, the Exchange represents that it will make every effort to add new stocks that are representative of the biotechnology sector and will take into account a stock's capitalization, liquidity, volatility and name recognition. Further, stocks may be replaced in the event of certain corporate events, such as takeovers or mergers, that change the nature of the security. If, however, the Exchange determines to increase the number of Index component stocks to greater than thirty or reduce the number of component stocks to fewer than ten, the proposal provides that the CBOE will submit a rule filing with the Commission pursuant to Section 19(b) of the Act.[10] In addition, in choosing replacement stocks for the Index, the CBOE will be required to ensure that at least 90% of the weight of the Index continues to be made up of stocks that are eligible for standardized options trading.[11]

D. Calculation of the Index

The Index will be calculated continuously and disseminated to the Options Price Reporting Authority ("OPRA") every 15 seconds by the CBOE or a designated agent of the CBOE, based on the last-sale prices of the component stocks. OPRA, in turn, will disseminate the Index value to other financial vendors such as Reuters, Telerate, and Quotron.

If a component stock is not open for trading, the most recently traded price is used in the Index calculation. The Index is price-weighted and reflects changes in the prices of the component stocks relative to the base date. Specifically, the Index value is calculated by adding the prices of the component stocks and then dividing this summation by a divisor that is equal to the number of stocks in the Index to get the average price. To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the prices of the component securities as well as changes in the composition of the Index. Changes which may result in divisor changes include, but are not limited to, stock splits and dividends, spin-offs, certain rights issuances, and mergers and acquisitions.

The Index value for purposes of settling outstanding Index options contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration.[12] In the case of securities traded through the NASDAQ-NMS system, the first reported sale price will be used. Once all of the component stocks have opened, the value of the Index will be determined and that value will be used as the settlement value for the options. If any of the component stocks do not open for trading on the last trading day before expiration, then the prior trading day's (*i.e.*, Thursday's) last sale price will be used in the Index calculation. In this regard, before deciding to use Thursday's closing value of a component stock for the purpose of determining the settlement value of the Index, the CBOE will wait until the end of the trading day on expiration Friday.[13]

E. Contract Specifications

The proposed options on the Index will be cashed-settled, European-style options. Standard options trading hours (8:30 a.m. to 3:10 p.m. Central Standard Time) will apply to the contracts. The Index multiplier will be 100. The strike price interval will be five for full-value Index options with a duration of one year or less to expiration.[14] In addition, pursuant to CBOE Rule 24.9, there will be six expiration months outstanding at any given time. Specifically, there will be three expiration months from the March, June, September, and December cycle plus three additional near-term months so that the three nearest term months will always be available. As described in more detail below, the Exchange also intends to list several additional long-term options series with two and three year to expiration ("LEAPS").

Lastly, the options on the Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). Accordingly, since options on the Index will settle based upon opening prices of the component stocks on the last trading day before expiration (normally a Friday), the last trading day for an expiring Index option series will normally be the second to the last business day before expiration (normally a Thursday).

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[9] See September 10 Letter, *supra* note 3.

[10] See Amendment No. 6, *supra* note 3.

[11] See Amendment No. 2, *supra* note 3. The CBOE's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000; (2) there must be a minimum of 2,000 stockholders; (3) trading volume must have been at least 2.4 million over the preceding twelve months; and (4) the market price must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* CBOE Rule 5.3.

[12] The last trading day prior to expiration is the third Friday of the expiration month. For a more detailed discussion of the trading days for the Index options. See *infra* Section II. E.

[13] For purposes of the daily dissemination of the Index value, if a stock included in the Index has not opened for trading, the CBOE will use the closing value of that stock on the prior trading day when calculating the value of the Index, until the stock opens for trading.

[14] For a description of the strike price intervals for reduced-value Index options and long-term Index options, see Section F below

F. Listing of Options on a Reduced Value Biotech Index

The proposal further provides for the listing of long-term index options that expire from 12 to 36 months from listing, on a reduced value Biotech Index that will be computed at one-tenth the value of the Index. The current and closing index value for BGX LEAPS will be competed by dividing the Index value by ten and rounding the resulting figure to the nearest one-hundredth. For example, a BGX value of 185.46 would be 18.55 for the reduced value LEAPS and 185.43 would become 18.54. Other than the reduced value, all other specifications and calculations for BGX LEAPS will remain the same. Pursuant to Exchange Rule 24.3, the reduced value Index will be continuously calculated and disseminated.

Under the proposal, the same rules which are applicable to the trading of long-term, reduced-value Standard & Poor's 100 and 500 Indexes ("OEX"and "SPX," respectively)[15] will be applicable to the trading of BGX LEAPS. For example, BGX LEAPS may expire from 12 to 36 months from the date of listing, and there may be up to six expiration months beyond one year to expiration. Specifically, the proposal provides that reduced value BGX LEAPS may be issued at six month intervals and that new strike prices will either be near or bracketing the current Index value. Strike price intervals, bid/ask differential and continuity rules will not apply to the trading of BGX LEAPS (or long-term, full-value Index options) until their time to expiration is less than 12 months. The strike price interval for BGX LEAPS will be no less than $2.50, instead of $5.00. Lastly, the proposal provides that additional long-term options series may be added when the value of the underlying Index increases or decreases by ten to fifteen percent. These provisions currently apply to the listing and trading of reduced value OEX and SPX LEAPS.

G. Position and Exercise Limits, Margin Requirements, and Trading Halts

Because the Index is classified as an Industry Index under CBOE rules, Exchange rules that are applicable to the trading of options on narrow-based indexes will apply to the trading of Biotech Index options and BGX LEAPS. Specifically, Exchange rules governing margin requirements [16], position and exercise limits [17], and trading halt procedures [18] that are applicable to the trading of narrow-based index options will apply to options traded on the Index. The proposal further provides that, for purposes of determining whether a given position in BGX LEAPS complies with applicable position and exercise limits, positions in BGX LEAPS will be aggregated with positions in the Index options. Under the proposal, ten reduced-value contracts will equal one full-value contract for purposes of aggregating these positions.

H. Surveillance

Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. These procedures include complete access to trading activity in the underlying securities. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement"), dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index. [19]

III. Summary of Comments

The Commission received comments from the NYSE and the NASD. [20] Both commentators believe that the settlement of derivative stock index products, such as stock index options, should be based on opening prices rather than closing prices. The commentators believe that the use of an opening price settlement method provides a means of minimizing excess market volatility that has been associated with the expiration of stock index derivative products as market participants unwind related derivative and stock positions. Specifically, the commentators note that an opening price settlement method permits buying and selling interests in the underlying securities to be balanced at the opening and gives market participants the opportunity to adapt to the opening prices, and trade out of their positions, throughout the remainder of the trading day. The concerns raised by these commentators are no longer applicable to the current proposal since the CBOE has amended its proposal to provide that expiring Index options will settle based on opening prices.

IV. Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[21] Specifically, the Commission finds that the trading of Biotech Index options, including full value and reduced value Index options[22], will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with securities in the biotechnology industry. The Commission also believes that the trading of Biotech Index options and BGX LEAPS will allow investors holding positions in some or all of the underlying securities in the Index to hedge the risks associated with their portfolios more efficiently and effectively. Moreover, the Commission believes that BGX LEAPS, which will be traded on an index computed at one-tenth the value of the Biotech Index, will serve the needs of retail investors by providing them with the opportunity to use a long-term option to hedge their portfolios from long-term market moves at a reduced cost.

The trading of options on the Biotech Index and on a reduced-value Biotech Index, however, raises several concerns, namely issues related to index design, customer protection, surveillance, and market impact. The Commission believes, for the reasons discussed

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[15] *See* Exchange Act Release No. 28686, 55 FR 51517 (December 14, 1990).

[16] Pursuant to CBOE Rule 24.11, the margin requirements for the Index options will be: (1) For each short options positions, 100% of the current market value of the options contract plus 20% of the underlying aggregate Index value, less any out-of-the-money amount, with a minimum requirement of the options premium plus 10% of the underlying Index value; and (2) for long options positions, 100% of the options premium paid.

[17] Pursuant to CBOE Rules 24.4 and 24.5, respectively, the position and exercise limits for the Index options will be 8,000 contracts, unless the Exchange determines, pursuant to Rules 24.4 and 24.5 that a lower limit is warranted.

[18] Pursuant to CBOE Rule 24.7, the trading on the CBOE of Index options may be halted or suspended whenever trading in underlying securities whose weighted value represents more than 20% of the Index value are halted or suspended.

[19] ISG was formed on July 14, 1983, to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. See Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990.

[20] See supra note 4. The CBOE responded to these comment letters in a letter to Jonathan G. Katz, Secretary, SEC, from Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, dated June 8, 1992. Since the issue raised by the commentators was resolved when the CBOE amended its proposal to provide for an opening settlement, the CBOE response has not been discussed in this section.

[21] 15 U.S.C. 78f(b)(5) (1988).

[22] Although the CBOE, at this time, intends to list Biotech Index LEAPS only on a reduced value Index ("BGX LEAPS"), the amendments to CBOE Rule 24.9 that permit BGX LEAPS to be listed for trading also permit the listing of full value Biotech Index LEAPS.

below, that the CBOE adequately has addressed these concerns.

A. Index Design and Structure

The Commission finds that the Index is narrow-based because it is only comprised of 20 stocks, all of which are within the biotechnology industry. The Commission also finds that the reduced value Biotech Index is also narrow-based since it is comprised of the same component securities as the Index and merely dividing the Biotech Index value by ten will not alter the basic character of the Index. Accordingly, the Commission believes it is appropriate for the CBOE to apply its rules governing narrow-based index options to trading in the Index options and BGX LEAPS.[23]

The Commission also finds that the large capitalizations, liquid markets, and relative weightings of the Index's component stocks significantly minimize the potential for manipulation of the Index. First, the overwhelming majority of the stocks that comprise the Index are actively traded, with a mean and median average daily trading volume of 363,454 and 335,635 shares, respectively.[24] Second, the market capitalizations of the stocks in the Index are very large, ranging from a high of $8.5 billion to a low of $138 million, with the mean and median being $960 million and $316 million, respectively. Third, no particular stock dominates the Index, in that no one stock comprises more than 13.73% of the Index's total value. Although the percentage weighting of the three largest issues in the Index accounts for half of the Index's value, this is not unreasonable given the nature of the biotechnology industry, the limited number of stocks in the Index, and the large capitalization and active trading markets of the three stocks.[25] Fourth, all of the component stocks in the Index currently are eligible for options trading.[26] Finally, the Commission finds that the requirement that the CBOE submit a rule filing pursuant to section 19(b) of the Act prior to expanding the Index to greater than thirty stocks or reduce the Index to less than ten stocks will protect against the design of the Index being materially changed without Commission review and approval. Accordingly, the Commission believes it is unlikely that attempted manipulations of the prices of the issues in the Index would affect significantly the Index's value.

In addition, the Commission does not believe that the fact that the Index is price-weighted instead of market-weighted results in the Index being readily susceptible to manipulation. Because the use of price-weighting could give securities with relatively small floats or prices a greater weight in the Index than if the Index were capitalization weighted, the Commission is concerned that this calculation method could make the Index more readily susceptible to manipulation. The CBOE, however, has developed several composition and maintenance criteria for the Index that the Commission believes will minimize the possibility that the Index could be manipulated through trading in less actively traded securities or securities with smaller prices or smaller floats. First, the CBOE proposal requires that 90% of the weighting of the Index be comprised of stocks that are eligible for standardized options trading. The Commission believes that these requirements will ensure that the Index will be almost entirely made up of stocks with large public floats that are actively traded, thus reducing the likelihood that the Index could be manipulated by abusive trading in the smaller stocks contained in the Index. Second, because the Index is narrow-based, the applicable position and exercise limits and margin requirements will further reduce the susceptibility of the Index to manipulation. Lastly, the CBOE represents that it will make every effort to add new stocks to the Index that are representative of the biotechnology sector and will take into account a stock's capitalization, liquidity, and volatility.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Biotech Index options and BGX LEAPS, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options and BGX LEAPS will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Biotech Index options and BGX LEAPS.

C. Surveillance

The Commission believes that a surveillance sharing agreement between an exchange proposing to list a stock index derivative product and the exchange(s) trading the stocks underlying the derivative product is an important measure for surveillance of the derivative and underlying securities market. Such agreements ensure the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the stock index product less readily susceptible to manipulation. In this regard, the CBOE, the Amex, and the NASD are members of the Intermarket Surveillance Group ("ISG"), which provides for the exchange of all necessary surveillance information.[27]

D. Market Impact

The Commission believes that the listing and trading of Biotech Index options and BGX LEAPS on the CBOE will not adversely impact the underlying securities markets. First, because 90% of the numerical value of the Index must be accounted for by stocks that meet the options listing standards, the component securities generally will be actively-traded, highly-capitalized stocks. Second, existing CBOE stock index options rules and surveillance procedures will apply to the Index options and BGX LEAPS. Third, the 8,000 contract position and exercise limits will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because the Index options and BGX LEAPS will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded in the United States.

Lastly, the Commission believes that settling expiring Biotechnology Index options and reduced value Biotechnology LEAPS based on the

[23] See *supra* notes 16 through 18 and accompanying text.

[24] In addition, for the six-month period between March and August 1992, all of the companies within the Index had an average daily trading volume greater than 57,000 shares per day. *See* September 10 Letter, *supra* note 3.

[25] For an index with a significantly greater number of stocks than 20 issues, the Commission might come to a different conclusion if only three stocks accounted for 51% of the index's weighting. Further, if an index contained only a few stocks, the Commission might question whether it can be traded as an index product.

[26] For a description of the options listing standards, see *supra* note 11.

[27] See *supra* note 19.

opening prices of component securities is reasonable and consistent with the Act because it may contribute to the orderly unwinding of Index option positions upon expiration.

E. Other Proposed Rule Changes

The Commission also believes that the other rule changes proposed by the CBOE to accommodate the trading of Biotech Index options are consistent with the Act. Specifically, the Commission believes it is consistent with the Act for the CBOE to codify its rules relating to long-term index options and reduced-value index options because it will make these rules clearer for market participants.

The Commission finds good cause for approving Amendment Nos. 1, 2, 3, 4, 5, and 6 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. First, Amendment Nos. 1 and 4 merely notified the Commission of changes in the composition of the Index. Because these filings are designed to ensure that the Index is representative of the biotechnology industry, the Commission believes they raise no new regulatory issues. Second, Amedment No. 2 requires that at least 90% of the Index's numerical value be accounted for by stocks that meet the options listing standards. The Commission believes that this modification strengthens the integrity of the Index and does not raise new issues. Moreover, the Commission finds that this modification to the proposal is designed to reduce the likelihood that the Index could be susceptible to manipulation.

Third, Amendment No. 3 provides for the listing of BGX LEAPS and codifies CBOE rules concerning long-term, reduced value index options. Because the index underlying BGX LEAPS is identical to the Index and BGX LEAPS will be subject to the same rules that apply to other index LEAPS traded on the Exchange, the Commission believes the CBOE's BGX LEAPS proposal raises no new regulatory issues. In addition, the other proposals contained in Amendment No. 3 do not change or add any new CBOE rules, they merely rearrange or clarify preexisting CBOE rules.

Fourth, Amendment No. 5 provides that the final settlement value of expiring Index options will be based on the opening prices of the component stocks on the trading day prior to expiration, instead of their closing prices. The Commission believes that this contract design modification, while significant in terms of the potential market impact of the Index options, does not alter significantly the contract design specifications of the Index options contracts. Moreover, the Commission believes that this modification may contribute to the orderly unwinding of positions in Index options and related positions, thereby helping to ensure that the trading of Biotech Index options will not have any adverse market impacts.

Fifth, Amendment No. 6 provides that the Exchange will submit a rule filing pursuant to Section 19(b) of the Act to continue listing the Index options if the number of component securities in the Index changes to either less than 10 or more than 30. The Commission believes that this requirement strengthens the Index and does not raise new issues. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment Nos. 1, 2, 3, 4, 5, and 6 to the CBOE's proposal on an accelerated basis.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[28] that the proposed rule change (SR–CBOE–91–51) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24005 Filed 10–2–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and to Withdraw Unlisted Trading Privileges in an Over-the-Counter Issue

September 29, 1992.

On September 18, 1992, the Midwest Stock Exchange, Inc. submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, *i.e.*, a security not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7–9152	ERTS	Electronic Arts, Inc., Common Stock, $.01 par value.

The above-referenced issue is being applied for as a replacement for the following security which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The MSE also applied to withdraw UTP pursuant to Section 12(f)(4) of the Act of the following issued:

File No.	Symbol	Issuer
7–9153	SOCI	Society Corporation, Common Stock, $1.00 par value.

A replacement issue is being requested as the common stock of Society Corporation has been listed on the New York Stock Exchange, rendering ineligible for the OTC/UTP program.

Comments

Interested persons are invited to submit, on or before October 20, 1992, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP would be consistent with Section 12(f)(2), which requires that, in considering an application for extension of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 92–24082 Filed 10–2–92; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges in Over-the-Counter Issues and to Withdraw Unlisted Trading Privileges in an Over-the-Counter Issue

September 29, 1992.

On September 14, 1992, the Philadelphia Stock Exchange, Inc.

[28] 15 U.S.C. 78s(b)(2) (1988).

[29] 17 CFR 200.30–3(a)(12) (1992).

("PHLX") submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, *i.e.*, securities not registered under Section 12(b) of the Act.

File No.	Symbol	Issuer
7-9144	FOFF	50-Off Stores, Inc., Common Stock $0.10, Par Value.
7-9145	BETZ	Betz Laboratories Inc., Common Stock $0.10, Par Value.
7-9146	CSCO	CISCO Systems, Common Stock $0.01, Par Value.
7-9147	CSFN	CoreStates Financial, Common Stock $1, Par Value.
7-9143	NOVX	Nova Pharmaceutical Corp., Common Stock $0.01, Par Value.
7-9149	DOLR	Dollar General Corporation, Common Stock $0.50, Par Value.
7-9150	CYTO	Cytogen Corporation, Common Stock $0.01, Par Value.
7-9151	MRDN	Meridian Bancorp., Common Stock $5, Par Value.

On September 2, 1992, the PHLX also applied to withdraw, pursuant to Section 12(f)(4) of the Act, UTP in following issue:

7-9072	LINB	Lin Broadcasting Corporation, Common Stock, $0.01 Par Value.

Comments

Interested persons are invited to submit, on or before October 20, 1992, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grant of UTP would be consistent with Section 12(f)(1), which requires that, in considering an application for extension of UTP in OTC securities, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a National Market System.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24083 Filed 10-2-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-31240; International Series No. 461; File No. SR-PHLX-92-25]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Expiration of December End-of-Month Foreign Currency Options Series

September 25, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 1, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX hereby submits, pursuant to Rule 19b-4 under the Act, a proposed rule change to amend Exchange Rule 1000(b)(21) to provide for a change in the expiration dates for certain end-of-month ("EOM") foreign currency options series expiring in December. Specifically, in those instances where the Saturday following the last Friday is December is December 26 or January 1, the expiration date for month-end foreign currency options will be on the Saturday immediately preceding December 25. The text of the proposed rule change is available at the Office of the Secretary, PHLX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On July 21, 1992, the Commission approved a PHLX proposal that provided for the listing of foreign currency options that expire on the Saturday following the last Friday of the expiration month for certain near-term expiration months, EOM options.[1] EOM foreign currency options are only available in the two nearest term consecutive month expirations and the nearest term cycle month expiration.

In 1992, the December cycle month expiration falls on Saturday, December 26, 1992 and the following year, such expiration falls on Saturday, January 1, 1994. Accordingly, the last trading day for these expiring options series would be Thursday, December 24, 1992 for December 1992 EOM options and Thursday, December 30, 1993 for December 1993 EOM options. This results because all organized markets, including the PHLX, will be closed on Christmas Day, Friday, December 25, 1992 and on the observed New Years' Day holiday, Friday, December 31, 1993.

The PHLX believes that the historic liquidity concerns experienced in foreign currency options trading on those days immediately preceding holidays may be compounded by the fact that these days may now also coincide with the last trading day for expiring December EOM foreign currency options. The Exchange notes that deep and liquid markets in foreign exchange instruments are negatively impacted globally on these dates as holidays are observed worldwide. Accordingly, the PHLX believes the ability to hedge PHLX foreign currency options with other derivative instruments or positions in the underlying spot market is made more difficult by the relative lack of liquidity in these other markets during holiday periods.

In this regard, the PHLX believes hedge markets, including bank spot currency trading desks, while open, reflect markets of dramatically less size and wider spreads on the trading day before holidays. Moreover, as European

[1] See Securities Exchange Release No. 30945 (July 21, 1992), 57 FR 33381.

trading hours are ahead of U.S. trading hours, European hedge markets and their participants will be even less of a factor in the market as they are further into these holiday periods. As European customers are a significant force in the PHLX's foreign currency options market, their absence due to these holidays will result in a further reduction of PHLX liquidity.

Finally, the PHLX believes that substantial risks are placed on the Exchange's market makers and other market participants because of liquidity concerns that occur on the Thursday before a Friday holiday and the fact that the PHLX and other markets are closed on the next day, the Friday holiday.

As market participants are generally active on the last trading day before an expiration date to among other reasons, unwind positions, offset long or short positions or engage in arbitrage transactions, such participants will be faced with the adverse market factors associated with the aforementioned holidays.

Accordingly, to address the prospect of these situations, the PHLX proposes to change the expiration dates for certain December EOM foreign currency options. Specifically, in those instances where the Saturday following the last Friday in December is December 26 or January 1, the expiration date for month-end foreign currency options will be on the Saturday immediately preceding December 25. The PHLX believes this amendment will also ease burdens on various securities industry operations staff during the December holiday periods. Because other December expiration PHLX foreign currency options classes and series expire prior to the Christmas and New Years' holidays, the PHLX does not seek any modification to their expiration dates.

The PHLX believes that the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either received or requested.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[2]

The Commission believes that the Exchange's proposal to change the expiration dates for certain December EOM foreign currency options likely will ease market liquidity concerns and help to reduce operational burdens during the holiday season period. In particular, the Commission believes that the PHLX's decision to change the expiration dates for certain of its December EOM foreign currency options is within the Exchange's business judgement given the realities of the global foreign currency market, which, is according to the Exchange, historically marked by reduced or declining liquidity during the days prior to the Christmas and New Year's holidays. Accordingly, the Commission finds that the PHLX's proposal to change the expiration dates for certain of its December EOM foreign currency options to the Saturday immediately preceding December 25th will promote just and equitable principles of trade and protect the investing public. In addition, the Commission notes that the PHLX has issued circulars to its membership advising them of these changes, thereby avoiding any possible investor confusion.

The Commission finds good cause for approving the proposed rule change prior to thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes the PHLX's proposal presents no new regulatory issues and that it is appropriate to approve the proposed rule change on an accelerated basis so that the Exchange can commence implementing the modified December expiration cycle for December month-end foreign currency options expiring in December 1992. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

[2] 15 U.S.C. 78f(b)(5) (1982).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 26, 1992.

It is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[3] that the proposed rule changes (SR–PHLX–92–25) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24003 Filed 10–2–92; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78s(b)(2) (1982).

[4] 17 CFR 200.30–3(a)(12) (1991).

[Rel. No. IC–18978; 812–8052]

Capstead Securities Corporation VI; Application

September 25, 1992

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "Act").

APPLICANT: Capstead Securities Corporation VI.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from all provisions of the Act.

SUMMARY OF APPLICATION: Applicant seeks a conditional order exempting it from all provisions of the Act in connection with applicant's proposed issuance and sale of one or more series of collateralized mortgage obligations

and residual interests relating thereto, and applicant's proposed election to treat any such series as a real estate mortgage investment conduit ("REMIC") under the Internal Revenue Code of 1986, as amended.

FILING DATES: The application was filed on August 17, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 2001 Bryan Tower, Suite 3300, Dallas,Texas 75201.

FOR FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504–2406 or Barry D. Miller, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Delaware corporation, is a direct, wholly-owned limited purpose finance subsidiary of Capstead Mortgage Corporation ("CMC"), formerly Lomas Mortgage Corporation. Applicant was organized solely for the purpose of engaging in mortgage-backed financing, including issuing and selling one or more series of collateralized mortgage obligations (as defined below, "Bonds").

2. Applicant will issue one or more series of Bonds under the terms of an indenture ("Indenture") between an independent trustee ("Indenture Trustee") and applicant as supplemented by one or more series supplements. The Indentures with respect to each series of Bonds which are publicly offered will be qualified under the Trust Indenture Act of 1939, as amended, unless an appropriate exemption is available.

3. With respect to any series of Bonds, applicant may sell its rights (the "Residual Rights") under the Indenture to receive (a) the excess cash flow from the collateral after the payment of principal and interest on such series of Bonds and of expenses from the administration of the Bonds, plus (b) any remaining value in the collateral after the payment in full of the principal and interest on such series of Bonds. If a REMIC election is made with respect to a series of Bonds, applicants may issue certain certificates ("REMIC Certificates") representing the right to receive cash flow from the collateral included in such REMIC in excess of the amounts required to be paid on the Bonds issued by such REMIC in accordance with their terms and in excess of expenses of the REMIC, or may issue a single class of residual bonds (the "Residual Bonds") representing the residual interest in such REMIC. (The "Residual Rights, REMIC Certificates, and Residual Bonds are referred to herein as the "Residual Interests"). All other classes of Bonds (other than Residual Bonds) with respect to such REMIC will represent the "regular interests" in the REMIC. Regular interests, together with all classes of Bonds of a series for which no REMIC election is made, are referred to as "Regular Bonds." (Unless otherwise specified below, all references to "Bonds" shall mean only the Regular Bonds.)

4. Applicant may sell the Residual Interests through a private placement exempt from registration under the Securities Act of 1933 (the "1933 Act") or through a public offering subject to registration under the 1933 Act; provided that in either case applicant satisfies the conditions set forth below under the "Conditions to Relief—C. Conditions Relating to Sale of Residual Interests."

5. The term "Bond" means: (a) A debt instrument which entitles the holder or owner only to (1) a specified principal amount, provided that interest (determined as provided below) that is not paid currently may be accrued and added to the principal of a Bond, and (2) either (A) interest based on such principal amount calculated by reference to (i) a fixed rate, (ii) a floating rate determined periodically by reference to an index that is generally recognized in financial markets as a reference rate of interest, or (iii) a rate or rates determined through periodic auctions among holders and prospective holders or through periodic remarketing of the instrument, or (B) an amount equal to specified portions of the interest received on the Mortgage Collateral (as defined below) held by the issuer, provided that the portion of the interest payable to the Bondholder or owner must be expected to provide a rate of return on the specified principal amount which bears a reasonable relationship to a market rate of interest; or (b) a zero coupon debt instrument which does not have a stated interest rate but on which interest effectively accrues from its issuance at a discount and which entitles the holder or owner only to a stated principal amount payable on or before a stated maturity date.

6. The Bonds of each series shall consist of one or more classes of Bonds, which may include one or more classes of (a) Bonds paying interest on a current basis, (b) compound interest Bonds or zero coupon Bonds, (c) reduced volatility Bonds which may be planned amortization class Bonds or targeted amortization class Bonds, and (d) increased volatility Bonds which are also known as support bonds. Each class of Bonds may have a separate interest rate and stated maturity date as indicated in the related prospectus for such series of Bonds. Principal payments may be allocated to more than one class of Bonds, but such allocation will be consistent with the retirement of each class not later than its stated maturity date. A compound interest Bond is one on which interest is not paid currently but instead is accrued and added to the principal balance of the bond on each payment date until certain Bonds with an earlier stated maturity date have been paid in full. A zero coupon Bond does not have a stated interest rate but interest effectively accrues from the issuance of such Bond at a discount with the stated principal amount being payable on or before the stated maturity date.

7. The "Mortgage Collateral" securing each series of Bonds which is owned by applicant will consist of Agency Certificates [1] or Non-Agency

[1] Agency Certificates are defined as (a) fully-modified pass-through mortgage-backed certificates ("GNMA Certificates") guaranteed as to timely payment of principal and interest by the Government National Mortgage Association ("GNMA"), (b) mortgage pass-through certificates ("FNMA Certificates") guaranteed as to timely payment of principal and interest by the Federal National Mortgage Association ("FNMA"), or (c) mortgage participation certificates ("FNMA Certificates") guaranteed as to timely payment of interest and under some programs timely payment of principal or under other programs ultimate collection of principal by the Federal Home Loan Mortgage Corporation ("FHLMC"). All or a portion of the Agency Certificates securing a series of Bonds may be "partial pool" Agency Certificates.

Certificates [2] (together, "Mortgage Certificates"). (The Mortgage Collateral and all other collateral securing the Bonds are collectively referred to as the "Collateral".)

8. In the case of each series of Bonds: (a) applicant will own or hold no substantial assets other than the Mortgage Collateral and a limited amount of other collateral securing such Bonds; (b) such Mortgage Collateral will have a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) the scheduled distributions of principal and interest received on the Mortgage Collateral securing the Bonds (together with cash available to be withdrawn from any reserve funds, debt service funds, over-collateralization funds or other funds), plus reinvestment income thereon, will be sufficient to make timely payments of principal of and interest on the Bonds and to retire each class of Bonds by its stated maturity; and (d) the Collateral will be assigned to the Indenture Trustee and will be subject to the lien of the related Indenture.

9. Neither applicant, the Residual Interest holders, nor the Indenture Trustee will be able to impair the security afforded by the Mortgage Collateral to the holders of the Bonds. Without the consent of each Bondholder to be affected, neither applicant, the Residual Interest holders, nor the Indenture Trustee will be able to (a) change the stated maturity on any Bonds; (b) reduce the principal amount or the rate of interest (or the formula by which such rate is computed) on any Bonds; (c) change the priority of payment on any class of any series of Bonds; (d) impair or adversely affect the Mortgage Collateral securing a series of bonds; (e) permit the creation of a lien ranking prior to or on a parity with the lien of the related Indenture with respect to the Collateral; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

10. The interests of the Bondholders will not be compromised or impaired by the sale of Residual Interests. The sale of Residual Interests will not alter the payment of cash flows under the Indenture, including the amounts to be deposited in the collection account or any reserve fund created under the Indenture to support the payment of principal and interest on the Bonds.

11. Except to the extent permitted by the limited right to substitute Collateral, it will not be possible for the Residual Interest holders to alter the Collateral initially pledged to the Indenture Trustee, and in no event will such right to substitute Collateral result in a diminution in the value or quality of such Collateral. Although it is possible that any Mortgage Collateral substituted for Mortgage Collateral initially pledged to the Indenture Trustee may have a different prepayment experience than the original Collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Collateral will be determined by market conditions beyond the control of the Residual Interest holders, which market conditions are likely to affect all Mortgage Collateral of similar payments terms and maturities in a similar fashion; and (b) the interests of the Residual Interest holders are not likely to be greatly different from those of the Bondholders with respect to Mortgage Collateral prepayment experience.

Applicant's Legal Conclusion

The requested order is necessary and appropriate in the public interest because: (a) Applicant should not be deemed to be an entity to which the provisions of the Act were intended to be applied; (b) applicant may be unable to proceed with its proposed activities if the uncertainties concerning the applicability of the Act are not removed; (c) the activities of applicant are intended to serve a recognized and critical public need; (d) granting the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the 1933 Act, and thereafter by the Indenture Trustee representing their interests under the Indenture; and (e) the Residual Interests will be held entirely by applicant or offered only to a limited number of sophisticated institutional or "accredited" non-institutional investors.

Applicant's Conditions

Applicant agrees that if an order is granted it will be expressly conditioned on the following (unless otherwise indicated all references to "Bonds" shall mean only the Regular Bonds):

A. Conditions Relative to Regular Bonds

1. Each series of Bonds will be registered under the 1933 Act, unless offered in a transaction exempt form registration pursuant to section 4(2) of the 1933 Act.

2. The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. In addition, the Mortgage Collateral securing the Bonds will be limited to Agency Certificates and Non-Agency Certificates.

3. If new Mortgage Collateral is substituted for Mortgage Collateral initially pledged as security for a series of Bonds, the substitute Mortgage Collateral must: (a) Be of equal or better quality than the Mortgage Collateral replaced; (b) have similar payment terms and cash flow as the Mortgage Collateral replaced; (c) be insured or guaranteed to the same extent as the Mortgage Collateral replace; and (d) meet the conditions set forth in paragraphs 2. and 4. of this Section A. New Non-Agency Certificates may be substituted for Non-Agency Certificates initially pledged only in the event of default, late payments, or defect in such Non-Agency Certificates being replaced. In addition, new Mortgage Collateral will not be substituted for more than 40% of the aggregate face amount of the Mortgage Collateral initially pledged as Mortgage Collateral. In no event may any new Mortgage Collateral be substituted for any substitute Mortgage Collateral.

4. All Mortgage Collateral, funds, accounts or other collateral securing a series of Bonds will be held by the Indenture Trustee or on behalf of the Indenture Trustee by an independent custodian (a "Custodian"). Neither the Custodian nor the Indenture Trustee will be an "affiliate" (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of applicant or the master servicer or originating lender of any Mortgage Loans underlying Non-Agency Certificates securing a series of Bonds. If there is no master servicer, no servicer of those Mortgage Loans may be an affiliate of the Indenture Trustee or Custodian. The Indenture Trustee will be provided with a first priority perfected security or lien interest in and to all Collateral.

5. Each series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the Act.

6. No less often than annually, an independent public accountant will audit the books and records of applicant and, in addition, with respect to each

[2] Non-Agency Certificates are defined as pass-through certificates and participation certificates which are neither issued nor guaranteed by an agency or instrumentality of the United States and which evidence the entire undivided interest in pools of whole mortgage loans secured by first liens on single family (one to four unit) residential properties ("Mortgage Loans").

series of Bonds, will report on whether the anticipated payments of principal and interest on the Mortgage Collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Indenture Trustee.

7. The master servicer of any Mortgage Loans underlying Non-Agency Certificates securing a series of Bonds may not be an affiliate of the Indenture Trustee or Custodian. If there is no master servicer for such Mortgage Loans, no servicer of those Mortgage Loans may be an affiliate of the Indenture Trustee or Custodian. In addition, any master servicer and any other servicer of the Mortgage Loans will be approved by FNMA or FHLMC as an "eligible seller/servicer" of conventional, residential Mortgage Loans. Each agreement governing the servicing of Mortgage Loans shall obligate the servicer to provide substantially the same services with respect to such Mortgage Loans as it is then currently required to provide in connection with the servicing of Mortgage Loans insured by the Federal Housing Administration, guaranteed by the Veterans Administration, or eligible for purchase by FNMA or FHLMC.

8. Beneficial and legal ownership of all Mortgage Collateral deposited with the Indenture Trustee will not be transferred until such time as the Indenture Trustee releases such Mortgage Collateral from the Indenture.

B. Additional Conditions Relating to Variable Rate Regular Bonds

1. The interest rate for each class of variable-rate Bonds will be subject to maximum interest rates ("interest rate caps") which may vary from period to period, and will always be specified in the related prospectus supplement for a series of Bonds.

2. The Collateral deposited with the Indenture Trustee to secure a series of Bonds will at all times be sufficient to provide for the full and timely payment of all principal and interest on the Bonds of such series under the assumption that the interest rate on all Bonds of such series (including any class thereof) is the maximum rate for each specific period.[3]

3. No Mortgage Collateral may be released from the lien of the Indenture prior to retirement in full of all Bonds of such series, except to the extent permitted by the limited right to substitute Collateral as described in the application.

C. Conditions Relating to the Sale of Residual Interests

1. Residual Interests will be sold or assigned only to a limited number, in no event more than one hundred, of institutional investors or non-institutional investors which are "accredited investors" as defined in rule 501(a) of the 1993 Act. Residual Interests will be sold or assigned only with respect to a series of Bonds in which the Mortgage Collateral is limited to Agency Certificates. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Residual Interests and to understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors, which may include individuals, will be limited to not more than fifteen, will be required to purchase at least $200,000 (measured by market value at the time of purchase) of such Residual Interests and will have a net worth at the time of purchase that exceeds $1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing Residual Interests and will have direct, personal and significant experience in making investments in mortgage-related securities. Holders of Residual Interests will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts or other institutions or non-institutional investors as described above that customarily engage in the purchase or origination of mortgages and other types of mortgage related securities.

2. Each purchaser of a Residual Interests will be required to represent that it is purchasing such Residual Interest for investment purposes and not for distribution and that it will hold such Residual Interest in its own name and not as nominee for undisclosed investors. Each purchaser of a Residual Interest will be required to agree that it will not resell such interest unless (a) the subsequent purchaser would have been eligible to purchase the Residual Interest directly from applicant under the terms of Condition C.1, (b) after the sale there would be no more than one hundred Residual Interest holders, and (c) the subsequent purchaser agrees to be subject to the same representations and undertakings as are applicable to the reselling purchaser. Transfers of Residual Interests will be prohibited in any case where, as a result of the proposed transfer, there would be more than one hundred Residual Interest holders with respect to the series of Bonds at any time.

3. No holder of a controlling interest in applicant (as the term "control" is defined in Rule 405 under the 1933 Act) will be affiliated with either the Custodian or any Rating Agency rating the Bonds.

4. No holder of a Residual Interest will be affiliated with the Indenture Trustee, the Custodian or any Rating Agency rating the Bonds.

5. If the sale of Residual Interests were to result in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of applicant, the relief afforded by any order granted on the application would not apply to subsequent Bond offerings by applicant.

D. Conditions Relating to REMICs

1. The election by applicant to treat the arrangement by which any series of Bonds is issued as a REMIC will have no effect on the level of the expenses that would be incurred relating to such series. If such REMIC election is made with respect to a series of Bonds, applicant will provide that all administrative fees and expenses in connection with the administration of the trust estate will be paid or provided for in a manner satisfactory to each Rating Agency rating the Bonds.

2. In addition, applicant will ensure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which method or combination of methods described in the application is selected to provide for the payment of such fees and expenses.

E. Special Condition

If any of the equity interests in applicant are sold and such sale results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of applicant (except with respect to a transfer of control to an affiliate of CMC), the relief afforded by

[3] In addition to those mechanisms referred to in the application, applicant may utilize additional mechanisms to ensure the adequacy of the Collateral notwithstanding the issuance of Bonds bearing interest at variable rates. Applicant will give the staff of the SEC notice by letter of any such additional mechanisms before they are utilized to give the staff an opportunity to raise any questions as to their appropriateness. In all cases, these mechanisms will be adequate to ensure the accuracy of the representation and to meet the standards required for a rating of the Bonds in one of the two highest bond rating categories.

any order granted on the application would not apply to subsequent Bond offerings by applicant.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24007 Filed 10-02-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18979; No. 811-5863]

Chubb Separate Account B of Chubb Life Insurance Company of America

September 28, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Chubb Separate Account B of Chubb Life Insurance Company of America ("Separate Account B").

RELEVANT 1940 ACT SECTION: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: Separate Account B seeks an order declaring that it has ceased to be an investment company as defined by the 1940 Act.

FILING DATE: The application was filed on July 16, 1992 and a restated and amended application was filed on September 14, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 22, 1992, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Bruce R. Stefany, President, Chubb Securities Corporation, One Granite Place, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Yvonne M. Hunold, Senior Attorney, at (202) 272-2676, or Wendell Faria, Deputy Chief, at (202) 272-2060, Office of Insurance Products (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Chubb Separate Account B, registered as a unit investment trust under the 1940 Act, is a separate account of Chubb Life Insurance Company of America ("Depositor").[1] Separate Account B was organized under the laws of New Hampshire on February 2, 1989 for the purpose of issuing certain flexible premium variable life insurance contracts.

2. On August 16, 1989, Separate Account B filed a Notification of Registration as an investment company on Form N-8A, a registration statement under the 1940 Act on Form N-8B-2 (File No. 811-5863) and a registration statement under the Securities Act of 1933 ("1933 Act") on Form S-6 (File No. 33-30527). The 1933 Act registration statement was declared effective on October 3, 1989. No public offering of these securities has been made.

3. Separate Account B never has held any assets, never has had any security holders and never has incurred any liabilities.

4. Separate Account B is not a party to any pending litigation or administrative proceedings.

5. Separate Account B is current in all of its required filings under the 1940 Act.

6. Separate Account B never has engaged, and does not propose to engage, in any business activity other than those necessary for winding-up of its affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24000 Filed 10-2-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18977; 812-8084]

ML Venture Partners II, L.P., et al.; Notice of Application September 25, 1992

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under he Investment Company Act of 1940 (the "Act").

APPLICANTS: ML Venture Partners II, L.P. ("MLVP II"), Sprout Capital VI, L.P. ("Sprout VI"), and DLJ Venture Capital Fund II, L.P. ("DLJ Venture").

RELEVANT ACT SECTIONS: Exemption requested pursuant to section 57(i) and rule 17d-1 authorizing a transaction otherwise prohibited by section 57(a)(4), and pursuant to section 6(c) for an exemption from the terms of a prior order of the Commission to permit such transaction.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the exercise of certain options held by MLVP II and DLJ Venture in Horizon Cellular Telephone Co. L.P. ("Horizon"). Applicants also request an exemption from certain conditions of a prior order of the Commission which permits co-investments and other transactions between MLVP II and certain affiliated persons.

FILING DATE: The application was filed on September 11, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 1992, and should be accompanies by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, MLVP II, World Financial Center, North Tower, New York, New York 10281; DLJ Venture and Sprout VI, DLJ Capital Corporation, 140 Broadway, New York, New York 10005-1285.

FOR FURTHER INFORMATION CONTACT: Elaine M. Boggs, Staff Attorney, at (202) 272-3026, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's public Reference Branch.

Applicants' Representations

1. MLVP II, a limited partnership organized under the laws of Delaware,

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[1] On July 1, 1991, Chubb Life Insurance Company of America was merged into The Volunteer State Life Insurance Company ("Volunteer Life"), and Volunteer Life changed its name to Chubb Life Insurance Company of America.

is a business development company. The investment objective of MLVP II is to seek long-term capital appreciation by making venture capital investments.

2. MLVP II has five general partners, consisting of four individuals (the "Individual General Partners") and one managing general partner, MLVPII Co., L.P. (the "Managing General Partner"). The Individual General Partners include three independent general partners (defined to be individuals who are not "interested persons" of MLVP II within the meaning of section 2(a)(19) of the Act) (the "Independent General Partners") and one general partner who is an individual and an affiliated person of the Managing General Partner. The Individual General Partners provide overall guidance and supervision with respect to the operations of MLVP II and perform all duties which the Act imposes on directors of business development companies organized in corporate form. The Independent General Partners assume the responsibilities and perform the obligations that the Act and the regulations thereunder impose on the non-interested directors of a business development company.

3. The general partner of the Managing General Partner is Merrill Lynch Venture Capital, Inc. (the "Management Company"), which is an indirect subsidiary of Merrill Lynch & Co., Inc. The Management Company performs management and administrative services for MLVP II pursuant to a management agreement between MLVP II and the Management Company. Subject to the supervision of the Individual General Partners, the Management Company performs, or arranges for the performance of, the administrative services necessary for the operation of MLVP II.

4. MLVP II, the Managing General Partner, and the Management Company have retained DLJ Capital Management Corporation (the "Sub-Manager"), an indirect wholly-owned subsidiary of Donaldson, Lufkin & Jenrette, Inc., to provide management services in connection with the venture capital investments of MLVP II pursuant to a sub-management agreement (the "Sub-Management Agreement"). The Sub-Manager is a wholly-owned subsidiary of DLJ Capital Corporation ("DLJ Capital"); each of the officers of the Sub-Manager is an officer of the Sub-Manager. The Managing General Partner, the Management Company, and the Sub-Manager are registered under the Investment Advisers Act of 1940, as amended.

5. Sprout VI is a venture capital fund and a Delaware limited partnership. Affiliates of DLJ Capital are responsible for the management of Sprout VI. DLJ Venture is a Delaware limited partnership, the interests in which are owned by employees and former employees of DLJ Capital and its corporate affiliates. Under its governing policies, DLJ Venture is required to co-invest with three venture capital funds, including Sprout VI, in each investment made by such funds in an amount proportionate to its capital. Collectively, Sprout VI, DLJ Venture, and certain other entities affiliated with DLJ Venture (Sprout Growth Ltd., Sprout Growth L.P., and future venture capital funds managed by DLJ Capital) are the "DLJ Investors."

6. In connection with the retention of the Sub-Manager, MLVP II and the Management Company decided it would be desirable for MLVP II to be permitted to co-invest with DLJ Investors. In this connection, Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") provided a letter to the Individual General Partners indicating that if any such co-investment opportunity were approved by them, MLPF&S or an affiliate would purchase such investment on behalf of MLVP II pending receipt of any necessary exemptive order. MLPF&S indicated that its obligation was subject to certain conditions, including a provision that it not be required to acquire any such investment on a nominee basis if the purchase price (and related carrying costs) of the total of such investments would exceed $8.0 million.

7. One such investment acquired by MLPF&S was a commitment to invest $1.5 million in Horizon, a limited partnership which owns interests in and operates cellular telephone systems. MLVP II had been offered the opportunity to commit up to an aggregate investment of $3.0 million in Horizon but limited its commitment to $1.5 million in light of the $8 million ceiling on the warehousing facility provided by MLPF&S. Horizon then offered to provide MLVP II with an option exercisable after the initial closing to make such additional $1.5 million investment on the same terms as its initial investment.

8. The investment opportunity was first presented to the Sub-Manager in 1991, which evaluated the proposed investment and determined that it was an appropriate investment for MLVP II. On February 19, 1992, the Independent General Partners considered and unanimously approved the investment by MLVP in Horizon.

9. Horizon received financing totalling approximately $53 million from a group of institutional investors, including a $4.0 million commitment from Sprout VI and the $1.5 million commitment from the Management Company on behalf of MLVP II. Horizon provided an option to DLJ Venture to make an investment in the aggregate amount of $137,000. DLJ Venture would have acquired such investment at the time of the original closing except for a delay in determining the form of its investment.

10. On May 11, 1992, applicants received a conditional order from the Commission permitting co-investments and other transactions by MLVP II and the DLJ Investors (Investment Company Act Release Nos. 18652 (Apr. 13, 1992) (notice) and 18700 (May 11, 1992) (order)) (the "Prior Order").

11. Upon receipt of the prior Order, the Independent General Partners reviewed the investment in Horizon in light of the considerations set forth in the Prior Order. On May 18, 1992, the Independent General Partners approved the acquisition by MLVP II of the $1.5 million investment commitment in Horizon from the Management Company, as a nominee investment, in accordance with the terms of the Prior Order.

12. Applicants state that they recognize that the proposed transaction is subject to the terms of the Prior Order, except to the extent discussed herein.

Applicants' Legal Analysis

1. Section 57(a)(4) of the Act prohibits certain affiliated persons specified in section 57(b) from participating in joint transactions with a business development company or a company controlled by a business development company in contravention of rules and regulations prescribed by the Commission. Section 57(i) provides that the rules and regulations of the Commission under sections 17(a) and (d) applicable to registered closed-end investment companies shall apply to transactions subject to 57(a) and (d) in the absence of rules under sections 57(a) and (d). No rules with respect to joint transactions have been adopted under section 57(a)(4). Rule 17d–1 under the Act prohibits affiliated persons of a registered investment company from entering into joint transactions with the investment company unless the Commission has granted an order permitting such transaction after considering whether the participation of such investment company is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

2. With respect to the limitations imposed by section 57(a)(4) of the Act, the Sub-Manager is an investment adviser for MLVP II, and the DLJ Investors may be considered to be entities controlled by DLJ Capital or under common control with the Sub-Manager. Thus, the DLJ Investors may be considered entities within the scope of section 57(b)(2) of the Act and subject to the limitations set forth in section 57(a)(4). Pursuant to section 57(i), the limitations on joint transactions set forth in rule 17d–1 thus are applicable to transactions involving MLVP II and the DLJ Investors.

3. MLVP II believes that co-investments can provide considerable potential benefits to its investment process. Applicants believe the proposed investments in Horizon are consistent with both this position and the intent of the application for the Prior Order.

4. Section 6(c) of the Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction from any provision of the Act, or rule thereunder, "if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions" of the Act.

5. The terms of the Prior Order contained specific conditions relating to the exemption provided by such order. Applicants have reviewed the conditions and believe that the commitment by MLVP II of an additional $1.5 million investment in Horizon and by DLJ Venture of a $137,000 investment will be consistent with each condition except for certain deviations from conditions 2(a) and (3). Condition 2(a) of the Prior Order provides that MLVP II will not make an investment for its portfolio, other than a follow-on investment in the same entity, if a DLJ Investor is an existing investor in such portfolio company with certain exceptions that do not apply to the proposed transaction. Applicants consider MLVP II's additional $1.5 million investment to be an extension of the initial investment, rather than a typical follow-on investment. As a result, there is a question as to whether the proposed transaction is consistent with condition 2(a). Condition 3 of the Prior Order requires, among other things, that the settlement dates be the same for all purchases of securities by MLVP II made jointly with a DLJ Investor. To the extent the proposed transaction is viewed as part of the initial investment transaction with a DLJ Investor, the settlement dates for the investment would be different, and thus, not in compliance with one of the requirements of condition 3.

6. Applicants submit that the requested order is consistent with the provisions, policies, and purposes of the Act and the protection of investors. In addition, prior to the time MLVP II makes such investment commitment to Horizon, its Independent General Partners will be required to make the specific findings required by condition 1(d) of the Prior order and MLVP II and the DLJ Investors will thereafter be subject to the terms of such order as it relates to their investments in Horizon.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24006 Filed 10–2–92; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18976; 812–7982]

Prudential California Municipal Fund, et al.; Notice of Application

September 25, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: Prudential California Municipal Fund, Prudential-Bache Equity Fund, Inc., Prudential Equity Income Fund, Prudential FlexiFund, Prudential Global Fund, Inc., Prudential-Bache Global Genesis Fund, Inc., Prudential-Bache Global Natural Resources Fund, Inc., Prudential-Bache GNMA Fund, Inc., Prudential-Bache Government Plus Fund, Inc., Prudential Government Securities Trust, Prudential Growth Fund, Inc., Prudential-Bache Growth Opportunity Fund, Inc., Prudential-Bache High Yield Fund, Inc., Prudential-Bache IncomeVertible Plus Fund, Inc., Prudential Intermediate Global Income Fund, Inc., Prudential Multi-Sector Fund, Inc., Prudential Municipal Bond Fund, Prudential Municipal Series Fund, Prudential-Bache National Municipals Fund, Inc., Prudential-Bache Option Growth Fund, Inc., Prudential Short-term Global Income Fund, Inc., Prudential-Bache Strategic Income Fund, Inc., Prudential-Bache Structured Maturity Fund, Inc., Prudential U.S. Government Fund, Prudential-Bache Utility Fund, Inc., Global Utility Fund, Inc., Nicholas-Applegate Fund, Inc., The Blackstone Government Income Trust, and any openend management investment companies to be established in the future that are part of the same group of investment companies, and (i) whose investment adviser or manager is Prudential Mutual Fund Companies, Inc. ("PMF") or Prudential Securities Incorporated ("Prudential Securities") or an investment adviser or manager that is an affiliated person of PMF or Prudential Securities as "affiliated person" is defined in section 2(a)(3) of the 1940 Act, (ii) whose principal underwriter is Prudential Mutual Fund Distributors, Inc. ("PMFD") or Prudential Securities, or a principal underwriter that is an affiliated person of PMFD or Prudential Securities as "affiliated person" is defined in section 2(a)(3) of the 1940 Act, and (iii) which hold themselves out to investors as being related for purposes of investment and investor services (all of the above being referred to collectively, in whole or in part, as the context requires, as the "Funds"), Prudential Securities, PMF, and PMFD.

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) to amend a prior order that exempted applicants from sections 2(a)(32), 2(a)(35), 18(f), 18(g), 18(i), 22(c) and 22(d) of the 1940 Act and rule 22c–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to amend a prior order, Prudential-Bache California Municipal Fund, Investment Company Act Release No. 17308 (Jan. 18, 1990) (the "Prior Order"), which permitted certain open-end management investment companies to sell two classes of shares representing interests in the same portfolio of securities. The requested relief would delete condition 11 of the Prior Order which required directors/trustees of the Funds to divide their purchases of Fund shares equally between the two classes of shares offered by a Fund.

FILING DATE: The application was filed on July 13, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 20, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested.

Persons may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicant, One Seaport Plaza, New York, New York, 10292.

FOR FURTHER INFORMATION CONTACT: Felice R. Foundos, Staff Attorney, at (202) 272–2190, or Barry D. Miller, Senior Special Counsel at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations and Analysis

1. Each Fund is or will be an open-end management investment company registered under the 1940 Act and has or will enter into an investment advisory or management agreement with PMF and a distribution agreement with PMFD and/or Prudential Securities as the principal underwriters for the Fund.

2. Pursuant to the Prior Order, the Funds may establish two classes of securities within the same investment portfolio, creating an alternative purchase plan (the "Alternative Purchase Plan"). The two classes consist of: (i) Class A shares which are subject to a front-end sales load and a rule 12b–1 distribution plan and (ii) Class B shares which are subject to a contingent deferred sales load and a rule 12b–1 distribution plan. The classes are identical in all respects except for disproportionate payments made under the rule 12b–1 distribution plans, any other incremental expenses subsequently identified that should be properly allocated to one class (which must be approved by the Commission pursuant to an amended order), shareholders of each class have exclusive voting rights with respect the rule 12b–1 distribution plan applicable to their class, and varying exchange privileges.

3. As one of the conditions to granting the relief requested in the Prior Order, applicants agreed in Condition 11 that:

> All purchases of shares of the Funds by the directors/trustees made after the issuance of a second class of shares will be equally divided between the two classes. Over time the actual holding of the two classes of newly purchased shares will differ to a minor degree if a director/trustee elects to have dividends reinvested.

4. Applicants believe that Condition 11 imposes a burden on the Funds' directors/trustees without any corresponding benefit. Accordingly, applicants propose to delete Condition 11 from the Prior Order.

5. At the time the Prior Order was granted, applicants assert that Condition 11 was included to eliminate any incentive on the part of the directors/trustees to favor the holders of one class of share over another. Applicants believe, however, that a Director's/Trustees's ownership of a different class of shares would not result in any conflicts of interest.

6. Since the issuance of the Prior Order, applicants cite to a number of similar exemptive applications granted by the Commission without the purchase restriction on directors/trustees. Accordingly, applicants assert that it would be unfair to continue to impose the burden of compliance with a condition not imposed on others similarly situated.

7. Applicants represent that the purpose of the Alternative Purchase Plan is to permit investors to choose the method of purchasing shares that is most beneficial, given the amount of the purchase, the length of time the investor expects to hold the shares and other relevant circumstances. Different investors have different needs. Applicants argue that elimination of Condition 11 would permit the directors/trustees to make their investment decisions based upon each individual's own situation.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–24004 Filed 10–2–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25644]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 25, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 19, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specially the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will received a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Energy Initiatives, Inc. (70–7828)

Energy Initiatives, Inc. ("EII"), One Upper Pond Road, Parsippany, New Jersey 07054, a nonutility subsidiary of General Portfolios Corporation, a subsidiary of General Public Utilities Corporation, a registered holding company, has filed a post-effective amendment under sections 9(a), 10 and 12(b) of the Act to its application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rule 45 thereunder.

By order dated June 19, 1991 (HCAR No. 25335) ("June 1991 Order"), the Commission, among other things, authorized EII to enter into an option agreement ("Option Agreement") granting EII the option ("Option") to acquire the interests of two Delaware limited partnerships and their affiliates (collectively, "Seller") in a 79.9 megawatt ("MW") congeneration facility being developed in Selkirk, New York ("Phase I") and in 270 MW of additional generating capacity being developed at that project site ("Phase II") (collectively, with Phase I, the "Project").

On June 28, 1991, EII entered into the Option Agreement with the Seller and paid to the Seller the purchase price of $3.65 million plus $650,000 for historical development costs and other specified transaction costs. The Commission reserved jurisdiction over the exercise of the Option pending certification of Phase II by the Federal Energy Regulatory Commission ("FERC") as a qualifying cogeneration facility under the Public Utilities Regulatory Policies Act of 1978. By order dated June 9, 1992, the FERC has so certified Phase II. EII now requests that the Commission release its reservation of jurisdiction over exercise of the Option.

Presently, Seller's interest in Phase I consists of a 20% limited partnership

interest in a Delaware limited partnership ("Cogen Partnership I") which has been formed to construct, own and operate Phase I. The Seller's interest in Phase II is reflected in a cost sharing agreement, which, among things, requires the Seller to contribute 20% of the development costs of Phase II and entitles the Seller to acquire up to a 20% interest in Phase II at the time a separate limited partnership is formed to construct, own and operate Phase II ("Cogen Partnership II") or at the time the interests in Phase I and Phase II are consolidated into a single partnership ("Consolidated Cogen Partnership").

As explained in the 1991 Order, the Option Agreement requires EII to pay Seller's 20% share of the development costs of Phase II and, subject to certain limitations, the equity contribution in the Project. The Option Agreement also requires EII to pay certain development costs of, and equity contributions to, Phase II, prior to the exercise of the Option (collectively, the "Contribution Cap"). The June 1991 Order authorized these payments up to a maximum aggregate amount of $7.5 million. As of August 15, 1992, EII has paid an aggregate of $2,077,000 of Phase II development costs, and no equity contributions, under the Contribution Cap.

EII presently anticipates that the interests of both Phase I and Phase II will be consolidated into Consolidated Cogen Partnership at or prior to the construction financing closing for Phase II ("Phase II Construction Closing"). The application states that the financing arrangements now in effect for Cogen Partnership I will be merged into the Phase II financing agreements at the Phase II Construction Closing. As part of the consolidated financing, the Project lenders are expected to permit Consolidated Cogen Partnership to refund to EII all or a portion of the Phase II development contributions previously made by EII, but require that the partners of Consolidated Cogen Partnership contribute equity to the joint project. A portion of that equity would be attributed to Phase I.

Accordingly, EII now proposes to (i) increase the Contribution Cap to $10 million from the $7.5 million presently authorized in the June 1991 Order and (ii) contribute a portion of the amount subject to the Contribution Cap to Phase I as well as Phase II. The increase in the Contribution Cap by up to $2,500,000 is required to enable EII to make an equity contribution to Consolidated Cogen Partnership, on behalf of the Seller, sufficient to enable Seller to acquire a 20% limited partnership interest in Consolidated Cogen Partnership at the time of the Phase II Construction Closing. Pursuant to the Option Agreement, the Seller's limited partnership interest in Consolidated Cogen Partnership would be acquired by EII upon exercise of the Option.

The application states that the Phase II equity contribution will not be required to be actually made until Phase II commences operations in 1994. However, EII expects that at the Phase II Construction Closing EII will be required to secure its agreement to make the equity contribution with an irrevocable bank letter of credit. Accordingly, EII further proposes to enter into a letter of credit reimbursement agreement which would obligate EII to repay the letter of credit bank in the event of any draw on the letter of credit made to satisfy EII's Phase II equity contribution. The letter of credit would be in a maximum face amount of the Contribution Cap (less any equity contribution made to Phase I), and would expire not later than December 31, 1994. Drawings on the letter of credit would bear interest at not more than 5% above the prime rate, as in effect from time to time. EII may also be required to pay fees which would not exceed 1% annually of the face amount of the letter of credit.

The Option Agreement previously required EII to pay to the Seller an exercise price of $5.5 million, increased by 15% compounded annually, upon exercise of the Option. The Seller has now agreed to reduce that rate so as not to exceed 12.5% in consideration for EII's agreement to increase the Contribution Cap.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-24002 Filed 10-2-92; 8:45 am]

BILLING CODE 8010-1-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 92-49-Notice 1]

Blue Bird Body Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Blue Bird Body Company (Blue Bird) of Fort Valley, Georgia, has determined that some of its vehicles are equipped with seats that fail to comply with 49 CFR 571.222, "School Bus Passenger Seating—Crash Protection," (Federal Motor Vehicle Safety Standard (FMVSS) No. 222), and has filed an appropriate report pursuant to 49 CFR part 573. Blue Bird has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

During the period of November 1, 1984 to April 28, 1992, Blue Bird manufactured 2,250 Micro Bird school buses, with a gross vehicle weight rating (GVWR) or less than 10,000 pounds, which may have passenger seat back heights less than the required 20 inches above the seating reference point. Paragraph S5.1.2 *Seat Height and Surface Area* requires that the seat back height on each school bus passenger seat be at least 20 inches above the seating reference point.

Blue Bird supports its petition for inconsequential noncompliance with the following:

Based on data provided on page 32 of a compliance test performed by NHTSA [Report No. 222/210/208-MSE-92-01-TR92037-01], the average height of the eight seats in the [Blue Bird Micro Bird school bus] was 19.84 inches above the seating reference point. This is only 0.16 inches (less than 1 percent) below the 20 inch requirement of section S5.1.2. Blue Bird Body Company sincerely believes that the noncompliance discussed herein is inconsequential as it relates to motor vehicle safety because the discrepancy in seat back height is so small.

School buses with a GVWR of 10,000 pounds or less are required to have seat belts meet FMVSS 208, 209, and 210. These small school buses, therefore, rely on occupant restraint systems rather than on compartmentalization for occupant protection. Since these small school buses are not required to meet the seat spacing and barrier requirements of compartmentalization and are equipped with seat belts at all designated seating positions, [Blue Bird believes] that having seats with seat back heights slightly below the [seating reference point] plus 20 inches dimension is not a safety related noncompliance.

Interested persons are invited to submit written data, views, and arguments on the petition of Blue Bird, described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested

but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: November 4, 1992.

Authority: 15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: September 29, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24013 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

Federal Transit Administration

Environmental Impact Statement for Transportation Improvements in the Greenbush Line Corridor in Massachusetts

AGENCY: Federal Transit Administration, Department of Transportation.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Federal Transit Administration (FTA) and the Massachusetts Bay Transportation Authority (MBTA) are undertaking the preparation of a Supplemental Draft Environmental Impact Statement (EIS) for transportation improvements in the Greenbush Line Corridor in the coastal communities of Braintree, Weymouth, Hingham, Cohasset, and Scituate, Massachusetts. The supplemental EIS is being prepared in accordance with 40 CFR part 1500 Council on Environmental Quality regulations for implementing the procedural requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR part 622, Federal Transit Administration and Federal Highway Administration Environmental Impact and related procedures. The area surrounding the seventeen mile long Greenbush Line, a currently unused railroad right of way, is part of a high priority corridor for regional transportation improvements because this heavily populated area is currently underserved by mass transit. Proposed transit options in this area would provide service to downtown Boston which is a significant destination from the Greenbush Line Corridor communities. It is proposed that the Supplemental Environmental Impact Statement evaluate five alternatives in addition to the no action alternative and any additional alternatives which may result from the scoping process. These alternatives are transportation systems management, improved commuter boat service, at grade commuter rail service, and commuter rail service with a tunnel through the Hingham Square area.

DATES: Written comments on the scope of alternatives and the impacts to be considered should be sent to the MBTA on or before October 26, 1992 at the address given below. A public scoping meeting will be held on Thursday, October 15, 1992 at 7:30 pm at the Cohasset, MA Town Hall.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Beth Mello, Chief of Program Development, Federal Transit Administration, Region I, 55 Broadway, Cambridge, Massachusetts 02142, Telephone (617) 494-2055.

ADDRESS: Written comments on the project scope should be sent to Ms. Jane Chmielinski, Manager of Environmental Affairs, MBTA, 10 Park Plaza, Boston, Massachusetts 02116, Telephone (617) 722-3152. A scoping meeting will be held at the following location: Cohasset Town Hall, 41 Highland Avenue, Cohasset, MA 02025.

SUPPLEMENTARY INFORMATION:

Scoping

The FTA and the MBTA invite interested individuals, organizations, and federal, state and local agencies to attend the scoping meeting to be held on October 15, 1992, at the time and location indicated under **DATES** and **ADDRESSES** (above), to participate in defining the alternatives to be evaluated in the supplemental EIS and identify any significant social, economic or environmental issues related to the alternatives.

The FTA and the MBTA invite written comments for a period of thirty days, beginning September 25 and ending October 26. Comments may be sent to the address listed above. Comments should focus on the appropriateness of the proposed alternatives rather than on individual preferences for a particular alternative. Endorsement of an alternative should be communicated after the supplemental Draft Environmental Impact Statement has been issued. Comments on specific social, economic, or environmental impacts to be evaluated and on evaluation criteria are also invited.

If you wish to receive scoping materials or be placed on a mailing list to receive further information as the project continues, contact Wayne Duchemin, Community Liaison, Massachusetts Bay Transportation Authority, 1515 Hancock Street, Quincy, Massachusetts 02169, Telephone (617) 722-5835.

Description of Study Area and Project Needs

The study area consists of the Greenbush Line Corridor, the area that would be served by the restoration of commuter rail service on the Greenbush Line. It consists of the communities or portions of communities lying east of Route 3 from Quincy on the north to Kingston on the south. These are: Northeast Braintree, north Weymouth, Hingham, Hull, Cohasset, Scituate, Norwell, Marshfield, and east Duxbury.

This area is served by Route 3, a limited access highway, Route 53, an undivided highway which parallels Route 3 over much of its length, and Route 3A, an undivided highway which parallels the Greenbush Line right of way through the Greenbush Line Corridor. Transit service in the area consists of Massachusetts Bay Transportation Authority feeder bus service to the Red Line rapid transit system to downtown Boston, subsidized private commuter bus service from several locations in the study area to downtown Boston, and subsidized commuter boat service from Hingham to downtown Boston.

The existing transportation services and facilities in the Greenbush Line Corridor do not now meet the Corridor's transportation needs. Population centers are isolated from major highways and have inadequate access to existing transit facilities. Severe congestion on Route 3 and other area highways and constrained parking and crowding on the Red Line lead to significant travel delays and inconvenience for commuters and other travelers in the Greenbush Corridor. Access time to commuter boat facilities has made the commuter boat unattractive to many commuters in the corridor. Long travel times on congested roadways limit the ability of private buses to meet the corridor's transit needs.

Alternatives

Alternatives other than the No Build alternative proposed for evaluation in the Environmental Impact Statement are transportation systems management,

improved commuter boat service, at grade commuter rail service, and commuter rail service with a tunnel through the Hingham Square area. These alternatives have been selected based on the results of prior planning efforts in the corridor area. Other alternatives may emerge during the course of the scoping process.

Probable Effects

The FTA and the MBTA will evaluate all significant environmental, social, and economic impacts of the alternatives to be analyzed in the Environmental Impact Statement. Impacts include changes in the natural environment, such as changes in air quality, water quality, rare and endangered species, changes in the social environment, such as changes in land use, community cohesion, noise and vibration conditions, aesthetic conditions, parklands, historic resources, or archaeological resources, and changes in the economic environment such as secondary development. Changes in transit service and patronage and associated changes in highway congestion will be evaluated. Traffic impacts will be evaluated. Project capital and operating costs will be estimated, cost effectiveness calculated, and financial implications analyzed. Mitigation measures for any adverse impacts identified will be explored.

FTA Procedures

In accordance with the Federal Transit Act as amended, and FTA policy, the Supplemental Draft Environmental Impact Statement will be prepared in conjunction with an Alternatives Analysis and the Supplemental Final Environmental Impact Statement will be prepared in conjunction with Preliminary Engineering. After its publication, the Supplemental Draft Environmental Impact Statement will be available for public and agency review and comment. A public hearing will be held. On the basis of the Supplemental Draft Environmental Impact Statement and the comments received, the MBTA will select a locally preferred alternative and seek approval from the FTA to continue with Preliminary Engineering and preparation of the Supplemental Final Environmental Impact Statement.

Issued on: September 29, 1992.

Leonard Braun,

Director, Eastern Area.

[FR Doc. 92-24071 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-57-M

National Highway Traffic Safety Administration

[Docket No. 92-30; Notice 2]

Bridgestone/Firestone, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Bridgestone/Firestone, Inc., (Bridgestone/Firestone) of Akron, Ohio to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a failure to comply with Federal Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 24, 1992, and an opportunity afforded for comment (57 FR 28234).

Section S4.3 of Standard No. 109 specifies that each tire be labeled with the name of the manufacturer or brand name, and the number assigned to the manufacturer in the manner specified in Part 574.

From February 26, 1991 through April 24, 1991, Bridgestone/Firestone manufactured 7,259 tires, designated "P215/70R14 FR480 WHY FR5" that bear incorrect serial information. The information should read "P215/70R14 FR480 W2HY FR5," the "2" in W2HY" being omitted. The missing "2" is part of an identification code which identifies Bridgestone/Firestone as the manufacturer of the tire. The noncompliance resulted when an error was made during the manufacturing of the serial marker.

Bridgestone/Firestone supported its petition with the following:

All tires manufactured in the affected size/type meet all requirements of Standard No. 109 except label requirements pertaining to S4.3.3.

If there would be need for the consumer or manufacturer representative to read the serial, sufficient information exists to define the manufacturing location as Bridgestone/Firestone, Inc., Wilson, North Carolina.

No comments were received on the petition.

During the comment period, NHTSA sought further information from the petitioner as to how the tires could be identified as Bridgestone/Firestone, and manufactured at the Wilson, N.C. plant. The petitioner responded that the tires bore the brand name "Firestone", and that they are labeled "WH". This designation is an obsolete code that was previously assigned to Firestone of Sweden, and would serve as an identifier (rather than the missing "W2") in the event of a recall. The tires also bear a date code, size, model, and "Made in U.S.A." markings.

NHTSA believes that this information is sufficient to identify the tires in the event a notification and remedy campaign is required. The date code and origin markings preclude the possibility of confusion with tires manufactured in Sweden under the "WH" designation. The fact that the tires comply with the performance requirements of Standard No. 109 reduces the likelihood that they will, in fact, be the subject of a safety campaign.

Accordingly, for the reasons expressed above, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24064 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-24; No. 2]

Chrysler Corporation; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Chrysler Corporation (Chrysler) of Detroit, MI to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.209, Federal Motor Vehicle Safety Standard No. 209, "Seat Belt Assemblies." The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 8, 1992, and an opportunity afforded for comments (57 FR 24298).

S4.6(b) of Standard No. 209 requires that a seat belt assembly that meets the requirements of manual belts subject to crash protection requirements of Standard No. 208 be permanently and legibly marked or labelled with the following statement:

"This dynamically-tested seat belt assembly is for use only in (insert specific seating position(s), e.g., "front

right") in (insert specific vehicle make(s) and model(s))". Chrysler estimates that it produced 375,000 1992 model vehicles other than passenger cars for sale in the United States whose front outboard seat belt assemblies were not marked or labelled as required by S4.6(b).

Chrysler supported its petition with the following:

The system utilized by Chrysler dealers to obtain replacement parts prevents the misapplication for which the statement is apparently intended.

The general part number system utilized is even numbers for right (passenger side) components and odd numbers for left (driver side) components.

All seat belt assemblies utilized in the subject vehicles are identified with a part number label. The replacement parts are individually packaged with the part number prominently displayed.

Application questions that arise during replacement can be resolved by simply comparing the O.E.M. and replacement part numbers.

All of the subject seat belt assemblies meet both the new dynamic requirements and the static requirements of FMVSS 209 from which they are not exempt.

The seat belt assemblies are not likely to be replaced with units intended for other models due to a variety of significant differences as follows:

—Various mounting configuration and location differences,
—Retractor locking device, spool size, webbing length and housing configuration differences,
—Differences in retractor trim covers, which are in many cases a part of the replacement unit,
—Inconsistent color availability between vehicle models,
—Various "B" post upper anchorage attachment configurations, and
—Differences in buckle latch plate configuration, and the inclusion of belt webbing cinch mechanisms in some assemblies.

Chrysler is not aware of any owner complaints, field reports or allegations of hazardous circumstances relating to the omission of the statement or the misapplication of seat belt assemblies in the subject vehicles.

One comment was received from Volkswagen of America, which supported the petition. It stated that it had petitioned NHTSA for rulemaking to remove the labeling requirement for all original equipment seat belt assemblies such as those that are the subject of the petition. Volkswagen believes that there is no reason to specify vehicle application on seat belts installed in a vehicle as part of original equipment from the factory. With regard to labeling replacement parts, Volkswagen believes that all manufacturers use a parts number control system to match seat belt assemblies to specific vehicles. The company agreed with the petitioner that, because of the unique configuration of seat belt assemblies, the replacement of any seat belt assembly with a unit not intended for a particular vehicle is unlikely.

The agency concurs with the petitioner's arguments and the comments of Volkswagen. The structure of the parts ordering system used by Chrysler and the variety of differences between seat belt assemblies will help prevent misapplication of the assemblies in question.

In consideration of the foregoing, it is hereby determined that petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24065 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-23; No. 2]

General Motors Corporation; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by General Motors Corporation (GM) of Warren, MI to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.108, "Lamps, Reflective Devices and Associated Equipment." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 29, 1992, and an opportunity afforded for comment (57 FR 22859).

Standard No. 108 requires that side reflex reflectors be designed to conform to Society of Automotive Engineers (SAE) Recommended Practice J594f, "Reflex Reflectors." The 1991 and 1992 Saturn SC models, as built, fully comply with standard No. 108. However, the Front End Covers, manufactured by GM and sold through GM dealerships as a removable vehicle accessory, have a mesh material sewn into the opening for the combination wraparound sidemarker/side reflex device. This mesh may cause side reflex reflector performance to fall below SAE J594f levels. GM discovered the noncompliance as a result of a compliance verification test conducted in June 1991. At that time, it ceased shipment of the SC Front End Covers to Saturn retailers and initiated an investigation into the apparent noncompliance. Saturn subsequently notified dealers to discontinue all sales of the SC Front End Covers.

GM supported its petition with the following reasons: The difference between SAE J594f requirements and the average performance values of a side reflex reflector with Front End Cover in place is imperceptible to the human eye. The average performance values exceed the minimum requirements specified in SAE J594f for all test points except for one. Only the .2–0 measurement point falls below the specified value (by 16.8 percent). As indicated in NHTSA's notices granting other similar Petitions for Determination of Inconsequential Noncompliance, a change in luminous intensity of less than 25 percent cannot be detected by the human eye. (See e.g., Notice granting Petition by Subaru of America (56 FR 59971); and Notice granting Petition by Hella, Inc. (55 FR 37601, at 37602)). Since the .2–0 measurement value is within this 25 percent of the required value and all other average test point values exceed the minimum specification, the noncompliance is inconsequential because the human eye cannot perceive the difference between the measured data and the minimum requirement.

Very few vehicles have the potential noncompliance condition. Sales of SC Front End Covers have been very low; only 67 SC models were equipped with a Front End Cover which was installed by the dealer prior to sale or delivery of the vehicle to the first purchaser. Saturn dealers installed 122 more after initial sale or delivery of the vehicle, and 560 Front End Covers were purchased and installed by customers. More than 14,500 SC models have been sold to date.

Front End Covers are not intended to be installed and left on vehicles permanently. Owners who purchase Front End Covers typically use them to prevent specific conditions, such as insect accumulation, stone chips, etc., on the front of the vehicle. Further, the Front End Cover installation instructions advise owners that moisture under the cover may damage the vehicle's paint.

Therefore, owners are likely to remove the cover from time to time. Such periodic use of the covers limits the exposure of others to any noncompliant system (i.e., side reflex reflector with a SC Front End Cover installed).

Neither the sidemarker lamp nor any other required lighting device falls below FMVSS 108 performance criteria with the Front End Cover in place.

GM is not aware of any accidents, injuries, owner complaints or field reports related to the reflectivity of the side reflex reflectors with the Front End Cover in place.

In addressing a similar petition filed by Chrysler involving noncompliant back-up lamps on 800 vehicles, the agency concluded that "A deficiency of 20% in this area, spread over a (small) population of * * * cars, is statistically unlikely to produce even one injury over the lifetime of all the cars." (52 Fed Reg. 17499, at 17500). GM believes that the same analysis applies in this case, where there is also a small population of vehicles and a deficiency of only 16.8 percent.

One comment was received on the petition, from Robert F. Schlegel, Jr., P.E. who supported it.

The principal point in GM's argument is that "[t]he average performance values exceed the minimum requirements * * * for all test points except for one. Only the .2—0 measurement point falls below the minimum value (16.8 percent)." The data that accompanied the petition indicated that GM conducted two compliance tests, a year apart. At the time of the second test, the specifications for the Front End Cover were not met, resulting in the failure of four test points to meet the minimum candela required. The minimum candela specification for test point .2—0 on a reflex reflector is 11.25, 75% of which is 8.4375. In June 1991, only 7.3 candela was recorded at this test point, or 65% of the required minimum, hence a difference that should be visible to the naked eye. To average a complying 1990 test value with a failing 1991 test value is akin to averaging apples and oranges. If averaging is to have any persuasive value, it must be among a contemporaneously manufactured population of reflectors. Thus, had GM conducted a second test in 1991 in which the reflector complied at test point .2—0, the agency would have considered it appropriate for GM to have averaged the test results as an indication that the test failure might have been random in nature.

Applying this rationale to the three other test points for which failures were found in the 1991 test, NHTSA is satisfied that the test values recorded indicate a failure of less than 25% of the required minimum, exclusive of averaging with the complying 1990 test values, and thus, these three failures do not reach the threshold of detectability. This leaves NHTSA to consider the effect of the failure by 35% to meet the minimum level required of a fourth test point. Although this failure presumably can be detected by the naked eye, when the values recorded for the reflector overall are considered, the matter does not rise to a quantum of failure for which NHTSA would have expended agency resources to make an initial determination of noncompliance had GM failed to do so. Although a manufacturer may determine that a noncompliance exists based upon its evaluation of a single test report, NHTSA adopts a more conservative approach when it makes an initial determination. NHTSA has also considered the relatively low number of Front End Covers that are involved in the noncompliance.

For the reasons set forth above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–24066 Filed 10–2–92; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 92–21; No. 2]

Michelin Tire Corporation; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Michelin Tire Corporation (Michelin) of Greenville, SC to be exempted from the notification and remedy requirements of the National Highway Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.109, "New Pneumatic Tires." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 21, 1992, and an opportunity afforded for comment (57 FR 21698).

Michelin manufactured 175,000 temporary spare tires, size T115/70R14 TEX, from May 1990 to July 1991, which do not comply with Standard No. 109. Standard No. 109 requires that temporary spare tires with a maximum inflation pressure of 60 psi have the words "Inflate to 60 psi" permanently molded into both sidewalls in letters not less than 0.5 inch high. The molds in which these tires were manufactured were incorrectly engraved with letters of 0.39 inch high. Most of the tires were original equipment spare tires on vehicles sold in the United States.

Michelin believes that the difference in letter height is almost unnoticeable to the naked eye and in no way would impact motor vehicle safety.

One comment was received on the petition, from Robert F. Schlegel, P.E. In Mr. Schlegel's opinion, the petition should be denied because he believes that consumers are still unaware that 60 psi is the standard inflation pressure for most "donut" spare tires. He commented that a black or yellow sticker which could be affixed to the wheel portion would be a remedy for Michelin's error. NHTSA finds no reason to deny the petition based on this comment. The inflation pressure of 60 psi is correctly stated on the noncompliant tires. The issue is whether the undersizing by 0.11 inch of the characters that state "60 psi" is inconsequential.

In 1990, the agency granted a virtually identical petition by Goodyear Tire & Rubber Co. (Docket No. IP80–10) where the minimum letter height was 0.394 in. In granting that petition, NHTSA observed.

> Although the information provided by lettering that complies in size with the standard's requirements will be legible at a greater distance from the tire, the undersize lettering should be clearly legible within a distance of four feet from the tire. The eye of a person inflating the tire may well be closer than this when inflation pressure is applied to the tire.

The agency finds that rationale compelling in this instance also.

In consideration of the foregoing, the agency hereby finds that the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92–24067 Filed 10–2–92; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 92-13, Notice 2]

Mitsubishi Motors America; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Mitsubishi Motors America (Mitsubishi) of Southfield, MI to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that a noncompliance with Motor Vehicle Safety Standard No. 106, *Brake Hoses*, is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 6, 1992, and an opportunity afforded for comment (57 FR 11648). Mitsubishi determined that hoses manufactured by Meihi Rubber and Chemical Co., Ltd. (MRCC) were installed on 7,894 1986–1992 model Mitsubishi trucks, and that some of these may fail the adhesion requirement of S7.3.7 of Federal Motor Vehicle Safety Standard No. 106,"Brake Hoses." Section S7.3.7 requires that except for hose reinforced by wire, an air brake hose shall withstand a tensile force of eight pounds per inch of length before separation of adjacent layers. Mitsubishi supported its petition with the following information:

1. Testing indicates that the noncompliance does not adversely affect vehicle safety. MRCC conducted FMVSS 106 tests on five different lots of hose which were manufactured by MRCC under the same manufacturing conditions as those which failed the adhesion requirement in the NHTSA test. The tests show full compliance with all requirements of FMVSS 106, with the exception of the adhesion test (S7.3.7).

2. In order to study whether separation of the adjacent layers may actually occur under regular vehicle operating conditions, MRCC imposed a pressure of 150 PSI, which is the maximum possible in the vehicle, for the same time periods. Again, no ballooning or separation was observed. Accordingly, in conditions which far exceed those that would actually be experienced in-use, there is no indication of an adverse impact on vehicle operation or safety from the noncompliance.

3. MRCC also conducted a flexure test specified in SAE J140 on hose assemblies which did not comply with the adhesion requirement at the second layer. SAE J1402 is the standard from which FMVSS 106 was derived. The SAE standard requires that an air brake hose assembly not lose air pressure before one million flexure cycles. MRCC hoses met this requirement. In addition, hoses also passed the vacuum adhesion test requirements of SAE J1402 Para. 4.2.5.1.

4. It is Mitsubishi Motors America's position that the adhesion requirement is not, from a safety aspect, relevant to the operational characteristic of MMC brake hoses and that the other requirements of the standard better represent the hoses' in-service environment and performance.

The adhesion test is include in Standard No. 106 to ensure that the various layers of the brake hose do not separate in service. Low adhesion in brake hoses can result in the build-up of air between plies. The trapped air can cause inward ballooning of the hose resulting in slow reaction of the brakes served, or complete malfunction due to the hose conduit being blocked altogether. Mitsubishi felt that the aforementioned scenario is most likely to occur with brake hoses subjected to a vacuum condition and the brake system of MMC heavy duty trucks are never subjected to a vacuum condition. MMC vehicles exported to the U.S. operate brake systems only at pressure conditions higher than atmosphere pressure.

Mitsubishi also believes that low adhesion causing separation of the hoses will not occur in the pressure application of this hose because the end fittings are composed of a sleeve crimping the hose from the outside of the hose, and a nipple or a joint inserted into the inner tube. The sleeve, nipple, and joint are independent of each other. Accordingly, any air which did pass between the inner tube and the nipple or the joint would immediately be discharged into the atmosphere through the gap between the sleeve and the nipple or the joint. In addition, both the intermediate rubber and the outer rubber have pin-pricked holes specially designed to allow air trapped in the plies to escape.

No comments were received on the petition.

A previous petition by Navistar International relating to adhesion failures in hose manufactured by Dana Weatherhead was granted on October 11, 1991 (56 FR 51440), on the basis of the following arguments:

1. The end use of the hoses was such that they were subject to pressure, not vacuum applications.

2. If the hoses were used in vacuum applications, their crimpled end fittings make it unlikely that air would become trapped between the layers of the hose.

3. If there is any permeation of air from the inner tube, the hoses are designed to release it through the pin-pricked outer layer.

The petitioner uses the MRCC hoses in pressure application. The outer layer of the hoses is pin-pricked. The hoses are equipped with crimped end fittings as were the Weatherhead hoses. Thus, the same factors exist in this case as in the previous petition which was granted.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24068 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-31, Notice 2]

PACCAR Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by PACCAR Inc. (PACCAR), of Bellevue, Washington, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 302, "Flammability of Interior Materials." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on June 26, 1992, and an opportunity afforded for comment (57 FR 28768).

Paragraph S4.3(a) of FMVSS No. 302 specifies that "When tested in accordance with S5, material described in S4.1 and S4.2 shall not burn, nor transmit a flame front across its surface, at a rate of more than 4 inches per minute."

From July 15, 1986, to November 5, 1991, PACCAR installed 3,430 mattresses (part no. K348-58) in the aerodyne sleepers of Kenworth truck models K100, W900, T600, and T800. The mattress is composed of a virgin foam core, outer cover or ticking, thread, and tape edging. When tested for compliance with FMVSS No. 302, all of these components passed with the exception of the tape edging.

PACCAR supported its petition for inconsequential noncompliance with the following:

The tape edging is certified by its manufacturer to meet all applicable fire retardancy standards pertaining to the bedding industry, including the cigarette burn test, which shows that a glowing ember will not ignite the tape or cause it to flame up.

The tape makes up only 1.9 percent of the mattress total construction and offers only a minimal surface area to carry a flame front.

PACCAR Inc. believes that due to normal wear and tear most of the non-compliant mattresses have been replaced.

In order to ignite the tape edging, an open flame would be required and since the rest of the mattress as well as the other construction of the cab and sleeper are FMVSS 302 compliant the presence of an open flame is highly unlikely.

PACCAR added that on current production and for aftermarket parts, the manufacturer of the tape is treating the tape edging to ensure compliance to the requirements of FMVSS 302.

No comments were received on the petition.

Because the petition had failed to state the margin by which its fabric exceeded the 4-inch per minute limit, NHTSA asked PACCAR for this information because of its relevance as to whether the noncompliance is inconsequential. PACCAR replied that the burn rate was 11.86 inches per minute.

Since this is an excessively large margin of failure, the agency asked for a drawing or photograph of the mattress so that it might have a better idea of the noncompliance involved. The noncompliant fabric had been described as "tape edging." The drawing of the mattress that was supplied shows the presence of the tape, and that it edges the entire rectangular perimeter of the mattress on both its top and bottom sides.

Turning to the three arguments that the petitioner advanced, the first of these is that the tape edging is certified by its manufacturer as complying with bed industry fire retardancy standards, including the cigarette burn test which shows that a glowing ember will not ignite the tape. The ability of the edging to pass the ember test offers reassurance of its ability to retard fire under non-crash circumstances from such sources as matches or cigarettes, even though it fails Standard No. 302.

The petitioner also argued that due to normal wear and tear "most of the non-compliant mattresses have been replaced." Given the fact that the noncompliant mattresses were installed as late as November 6, 1991, and that the petitioner offered no data in support of its belief, NHTSA has discounted this argument.

Finally, according to the petitioner, all other components used in the mattress comply with the standard, that is to say, 98.1% of the materials, and the 1.9% that does not comply, the tape edging, offers only a minimal surface to carry a flame front. Further, the petitioner stated that all other interior materials in the truck cabs in question to conform to FMVSS No. 302.

Accordingly, for these reasons, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued: September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24069 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-22; No. 2]

Uniroyal Goodrich Tire Company; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Uniroyal Goodrich Tire Company (Uniroyal) of Greenville, SC to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars." The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 29, 1992, and an opportunity afforded for comment (57 FR 22861).

Federal Motor Vehicle Safety Standard (FMVSS) No. 119 requires that the maximum load rating and corresponding inflation pressure of the tire shall be molded into the sidewall of the tire. Uniroyal determined that during the period of the 9th week through the 15th week of 1992, the Uniroyal Goodrich plant in Opelika, Alabama produced approximately 2,000 LT245/75R16 load range C, Uniroyal Laredo tires with an incorrect load range marking in one location on one of the sidewalls. The tires were marked as Load Range E. The load range marking appears twice on each sidewall, and is correctly marked "Load Range C" in three of the four locations. Of the 2,000 tires, Uniroyal recovered 210 and will correct the error. Approximately 1,700 of the tires were sold as original equipment on General Motors light trucks. The remaining tires were sold in the replacement market.

The correct maximum load and inflation pressure are labeled on the tires. Uniroyal does not believe that the labeling of an incorrect letter for the load range designation on one sidewall of these tires will impact motor vehicle safety, since the tires are also marked with the correct load and inflation information. In addition, Uniroyal tested two of the noncompliant tires to the strength and endurance requirements. Uniroyal feels the test results demonstrate that even in the unlikely event that the tires were run at load range E conditions instead of load range C conditions, they would not present a safety problem.

No comments were received on the petition.

As the petitioner points out, the correct maximum load and inflation pressures are labeled on both sides of the tires, and an incorrect load rating designation on one side of the tires ought not to impact safety. The agency also finds persuasive that the petitioner has tested a sample of tires to the strength and endurance requirements of Standard No. 119 at the higher load range and inflation pressure, and that the tires passed these requirements. NHTSA also notes that it has granted petitions in the past that are similar to the one under consideration.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on September 30, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-24070 Filed 10-2-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: September 28, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by

calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Comptroller of the Currency

OMB Number: 1557–0070.
Form Number: FFIEC 004.
Type of Review: Extension.
Title: (MA)—Inside Transactions (12 CFR 31).
Description: 12 CFR part 31 and FFIEC 004 implement statutes that require national bank insiders to report indebtedness and national banks to disclose the indebtedness of executive officers and principal stockholders to the bank or its correspondent banks.
Respondents: Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents: 37,500
Recordkeepers: 3,750.
Estimated Burden Hours Per Respondent: 2 hours.
Recordkeeper: 10 hours.
Frequency of Response: On occasion
Estimated Total Recordkeeping Burden: 112,500 hours.
Clearance Officer: John Ference (202) 874–4697, Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.
OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–24008 Filed 10–2–92; 8:45 am]

BILLING CODE 4810–33–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 28, 1992.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0157.
Form Number: None.
Type of Review: Reinstatement.
Title: Exportation of Used Self-Propelled Vehicles.
Description: This information collection requires the submission of documents verifying vehicle ownership of exporters for importation/exportation of vehicles in the United States.
Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/Recordkeepers: 4,000.
Estimated Burden Hours Per Respondent/Recordkeeper: 10 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 12,662 hours.
Clearance Officer: Ralph Meyer (202) 927–1552, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW, Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 92–24009 Filed 10–2–92; 8:45 am]

BILLING CODE 4820–02–M

[Number: 102–01]

Delegation of Authority Concerning Personnel Management

Dated: September 25, 1992

SUBJECT: Delegation of Authority Concerning Personnel Management

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), 5 U.S.C. 301 and 302, and by the regulations of the Office of Personnel Management, there is hereby delegated to the Assistant Secretary (Management) all the Secretary's personnel management authority (including pay administration), subject to the conditions and exceptions noted below.

1. Delegation

a. The Assistant Secretary (Management) is delegated authority to:

(1) Establish personnel management policy and procedures for the Department. Such policies and procedures shall be binding on all constituent elements of the Department, regardless of how and where personnel functions are assigned; whether or not personnel are paid from appropriated or non-appropriated funds; and whether or not personnel are in the competitive or excepted Civil Service or in the Senior Executive Service (SES);

(2) Evaluate the effectiveness of the Department's personnel management program at all organizational levels and require appropriate remedial action; and

(3) Take final personnel actions on matters pertaining to the employment, direction, and general administration of personnel.

b. With respect to positions in the Internal Revenue Service, the Commissioner of Internal Revenue is delegated the authority cited in paragraph 1.a.(3), subject to any limitations and requirements established by the Assistant Secretary (Management) under paragraphs 1.a.(1) and (2).

2. Reserved Authorities

a. The Secretary and Deputy Secretary shall retain the right to exercise any authority which is delegated under this Order, and to review any other official's exercise of an authority which is delegated under this Order.

b. The following authorities are not delegated and are reserved to the Secretary of the Treasury or the Deputy Secretary, as may be appropriate:

(1) The selection, appraisal of performance, and discipline of the heads of bureaus and the official(s) next in line to the head of the bureau; the Chief Financial Officer, the Chief Operations Officer, and the Chief Information Officer of the Internal Revenue Service; and those officials in the Department Offices who report directly to the Secretary, the Deputy Secretary or the Under Secretaries;

(2) The following functions relating to the SES:

(a) Determining the number of SES positions to be requested from the Office of Personnel Management and allocating any positions awarded among the bureaus, the Office of the Inspector General, and the Departmental Offices;

(b) Determining the disposition among the bureaus, the Office of Inspector General, and the Departmental Offices of any existing SES positions that become vacant;

(c) Making selections of individuals for initial appointments to SES positions in the Departmental Offices;

(d) Approving the initial setting and adjusting of pay levels for SES members in the Departmental Offices;

(e) Making selections of individuals entering, by any means, SES positions at

pay levels ES 5 or 6 throughout the Department;

(f) Setting the initial pay level and adjusting the pay levels for SES members in pay levels ES 5 or 6 throughout the Department;

(g) Making recommendations to the Office of Personnel Management for Presidential Rank Awards;

(h) Serving as the appointing authority for the purpose of issuing final written performance appraisal ratings and performance awards for SES members in the Departmental Offices; and

(3) Any other matter which, by law or regulation of outside agencies, requires the personal decision of the agency head.

c. For the purposes of paragraph 2.b., personnel in the Office of the General Counsel are part of the Legal Division and not the Departmental Offices, except that paragraph 2.b.(2)(c) and 2.b.(2)(d) shall apply to the Assistant General Counsels.

3. Inspector General

a. The Deputy Secretary is designated to take all final personnel actions and issue final appraisals of performance with respect to the principal inspection and audit positions in the bureaus where those positions are not within the Office of Inspector General. The Deputy Secretary shall consult with the Inspector General and the head of the bureau in such matters.

b. The authority of the Inspector General concerning personnel management is defined in Treasury Order (TO) 114–01, dated May 16, 1989, or any successor Order. The provisions of this TO 102–01 shall not be construed to interfere with that authority.

4. The Assistant Secretary (Management)

The Assistant Secretary (Management), at the direction of the Secretary or Deputy Secretary, may exercise any authority with respect to all personnel matters reserved to the Secretary or Deputy Secretary.

5. Redelegation

The Assistant Secretary (Management) and the Commissioner of Internal Revenue may redelegate such of their authority under this Order as they deem appropriate.

6. Cancellation

TO 102–01, "Delegation of Authority Concerning Personnel Management," dated December 5, 1985, is superseded.

Nicholas F. Brady,

Secretary of the Treasury.

[FR Doc. 92–24011 Filed 10–02–92; 8:45 am]

BILLING CODE 4810–25–M

Office of the Secretary

[Department Circular—Public Debt Series—No. 32–92]

Treasury Notes of October 15, 1999, Series H–1999; (CUSIP No. 912827 H2 1)

Washington, September 30, 1992.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of chapter 31 of title 31, United States Code, invites tenders for United States securities, as described above and in the offering announcement, hereafter referred to as Notes. The Notes will be sold at auction, and bidding will be on a yield basis. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The issue date and maturity date of the Notes are stated in the offering announcement. The Notes will accrue interest from the issue date. Interest will be payable on a semiannual basis as described in the offering announcement through the date that the principal becomes payable. The Notes will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the nest business day.

2.2. The Notes will be issued only in book-entry form in the minimum and multiple amounts stated in the offering announcement. They will not be issued in registered definitive or in bearer form.

2.3. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the Treasury Direct Book-Entry Securities System in Department of the Treasury Circular, Public Debt Series, No. 2–86 (31 CFR part 357), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500. The closing times for the receipt of noncompetitive and competitive tenders are specified in the offering announcement. Noncompetitive tenders will be considered timely if postmarked (U.S. Postal Service cancellation date) no later than the day prior to the auction and received no later than close of business on the issue day.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is stated in the offering announcement, and larger bids must be in multiples of that amount.

3.3. Competitive bids must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. A single bidder, as defined in Treasury's single bidder guidelines contained in Attachment A to this circular, may submit bids at more than one yield. However, at any one yield, the Treasury will not recognize any amount tendered by a single bidder in excess of 35 percent of the public offering amount. A competitive bid by a single bidder at any one yield in excess of 35 percent of the public offering will be reduced to that amount.

3.4. Noncompetitive tenders do not specify a yield. A single bidder should not submit a noncompetitive tender for more than $5,000,000. A noncompetitive bid by a single bidder in excess of $5,000,000 will be reduced to that amount. A bidder, whether bidding directly or through a depository institution or a government securities broker/dealer, may not submit a noncompetitive bid for its own account in the same auction in which it is submitting a competitive bid for its own account. A bidder may not submit a noncompetitive bid if the bidder holds a position, in the Notes being auctioned, in "when-issued" trading, or in futures or forward contracts. A noncompetitive bidder may not enter into any agreement to purchase of sell or otherwise dispose of the security being auctioned, nor may it commit to sell the security prior to the designated closing time for receipt of competitive bids.

3.5. The following institutions may submit tenders for accounts of customers: Depository institutions, as described in section 19(b)(1)(A), excluding those institutions described in subparagraph (vii), of the Federal

Reserve Act (12 U.S.C. 461(b)(1)(A)); and government securities broker/dealers that are registered with the Securities and Exchange Commission or noticed as government securities broker/dealers pursuant to section 15C(a)(1) of the Securities Exchange Act of 1934. Others are permitted to submit tenders only for their own account. A submitter, if bidding competitively for customers, must include a customer list with the tender giving, for each customer, the name of the customer and the amount bid. A separate tender and customer list should be submitted for each competitive yield. For noncompetitive bids, the customer list must provide, for each customer, the name of the customer and the amount bid. For mailed tenders, the customer list must be submitted with the tender. For other than mailed tenders, the customer list should accompany the tender. If the customer list is not submitted with the tender, information for the list must be complete and available for review by the deadline for submission of noncompetitive tenders. The customer list should be received by the Federal Reserve Bank on auction day. All competitive and noncompetitive bids submitted on behalf of trust estates must provide, for each trust estate, the name or title of the trustee(s), a reference to the document creating the trust with the date of execution, and the employer identification number of the trust. Customer bids may not be aggregated on the customer list. The customer list must include customers and customers of those customers, where applicable.

3.6. A competitive single bidder must report its net long position if the total of all its bids for the security being offered and its net position in the security equals or exceeds $2 billion, with the position to be determined as of one half-hour prior to the closing time for the receipt of competitive tenders. A net long position includes positions, in the security being auctioned, in "when-issued" trading, and in futures and forward contracts. Bidders who meet this reporting requirement and are customers of a depository institution or a government securities broker/dealer must report their positions through the institution submitting the bid on their behalf.

3.7. Tenders from bidders who are making payment by charge to a funds account at a Federal Reserve Bank and tenders from bidders who have an approved autocharge agreement on file at a Federal Reserve Bank will be received without deposit. In addition, tenders from States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; and Federal Reserve Banks will be received without deposit. Tenders from all others, including tenders submitted for Notes to be maintained on the book-entry records of the Department of the Treasury, must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.8. After the deadline for receipt of competitive tenders, there will be a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive bids will be accepted in full, and then competitive bids will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Bids at the highest accepted yield will be prorated if necessary. After the determination is made as to which bids are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive bids will pay the price equivalent to the weighted average yield of accepted competitive bids. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g. 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive bids received would absorb all or most of the offering, competitive bids will be accepted in an amount sufficient to provide a fair determination of the yield. Bids received from Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive bids.

3.9. No single bidder will be awarded securities in an amount exceeding 35 percent of the public offering. The determination of the maximum award to a single bidder will take into account the bidder's net long position, if the bidder has been obliged to report its position per the requirements outline in section 3.6.

3.10. Notice of awards will be provided by a Federal Reserve Bank or Branch or the Bureau of the Public Debt to bidders who have submitted accepted competitive bids, whether for their own account or for the account of customers. Those submitting noncompetitive bids will be notified only if the bid is not accepted in full, or when the price at the average yield is over par. No later than 12 noon local time on the day following the auction, the appropriate Federal Reserve Bank will notify each depository institution that has entered into an autochage agreement with a bidder as to the amount to be charged to the institution's funds account at the Federal Reserve Bank on the issue date. Any customer that is awarded $500 million or more of securities must furnish, no later than 10 a.m. local time on the day following the auction, written confirmation of its bid to the Federal Reserve Bank or Branch where the bid was submitted. A depository institution or government securities broker/dealer submitting a bid for a customer is responsible for notifying its customer of this requirement if the customer is awarded $500 million or more of securities as a result of bids submitted by the depository institution or government securities broker/dealer.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all bids in whole or in part, to allot more or less than the amount of Notes specified in the offering announcement, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made timely at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on notes allotted will be made by a charge to a funds account or pursuant to an approved autocharge agreement, as provided in section 3.7. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.7. must be made or completed on or before the issue date. Payment in full must accompany tenders submitted by all other investors.

Payment must be in cash; in other funds immediately available to the Treasury; in Treasury notes or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors by the time stated in the offering announcement. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted may, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in Treasury Direct are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the Note being purchased. In any such case, the tender form used to place the Notes allotted in Treasury Direct must be completed to show all the information required thereon, or the Treasury Direct account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3 The Notes issued under his circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

6.4 Attachment A and the offering announcement are incorporated as part of this circular.

Gerald Murphy,

Fiscal Assistant Secretary.

TREASURY'S SINGLE BIDDER GUIDELINES FOR NONCOMPETITIVE BIDDING IN ALL TREASURY SECURITY AUCTIONS

The investor categories listed below define what constitutes a single noncompetitive bidder.

(1) *Bank Holding Companies and Subsidiaries*—A bank holding company (includes the company and/or one or more of its subsidiaries, whether or not organized as separate entities under applicable law).

(2) *Banks and Branches*—A parent bank (includes the parent and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(3) *Thrift Institutions and Branches*—A thrift institution, such as a savings and loan association, credit union, savings banks, or other similar entity (includes the principal or parent office and/or one or more of its branches, whether or not organized as separate entities under applicable law).

(4) *Corporations and Subsidiaries*—A corporation (includes the corporation and/or one or more of its majority-owned subsidiaries, i.e., any subsidiary more than 50 percent of whose stock is owned by the parent corporation or by any other of its majority-owned subsidiaries).

(5) *Families*—A married person (includes his or her spouse, and any unmarried adult children, having a common address and/or household).

Note: A minor child, as defined by the law of domicile, is *not* permitted to submit tenders individually, or jointly with an adult bidder. (A minor's parent acting as natural guardian is *not* recognized as a separate bidder.)

(6) *Partnerships*—Each partnership (includes a partnership or individual partner(s), acting together or separately, who own the majority or controlling interest in other partnerships, corporations, or associations).

(7) *Guardians, Custodians, or other Fiduciaries*—A guardian, custodian, or similar fiduciary, identified by (a) the name or title of the fiduciary, (b) reference to the document, court order, or other authority under which the fiduciary is acting, and (c) the taxpayer identifying number assigned to the estate.

(8) *Trusts*—A trust estate, which is identified by (a) the name or title of the trustee, (b) a reference to the document creating the trust, e.g., a trust indenture, with date of execution, or a will, (c) the IRS employer identification number (not social security account number).

(9) *Political Subdivisions*—(a) A state government (any of the 50 states and the District of Columbia).

(b) A unit of local government (any county, city, municipality, or township, or other unit of general government, as defined by the Bureau of the Census for statistical purposes, and includes any trust, investment, or other funds thereof).

(c) A commonwealth, territory, or possession.

(10) *Mutual Funds*—A mutual fund (includes all funds that comprise it, whether or not separately administered).

(11) *Money Market Funds*—A money market fund (includes all funds that have a common management).

(12) *Investment Agents/Money Managers*—An individual, firm, or association that undertakes to service, invest, and/or manage funds for others.

(13) *Pension Funds*—A pension fund (includes all funds that comprise it, whether or not separately administered).

Notes: The definitions do not reflect all bidder situations. "Single bidder" is not necessarily synonymous with "single entity".

Questions concerning the guidelines should be directed to the Office of Financing, Bureau of the Public Debt, Washington, DC 20239 (telephone 202/219–3350).

Auction of $9,750 Million of 7-Year Notes

The Treasury will auction $9,750 million of 7-year notes to refund $6,190 million of 7-year notes maturing October 15, 1992, and to raise about $3,550 million new cash. The $6,190 million of maturing 7-year notes are those held by the public, including $359 million currently held by Federal Reserve Banks as agents for foreign and international monetary authorities.

The $9,750 million is being offered to the public, and any amounts tendered by Federal Reserve Banks as agents for foreign and international monetary authorities will be added to that amount. Tenders for such accounts will be accepted at the average price of accepted competitive tenders.

In addition to the public holdings, Federal Reserve Banks for their own accounts hold $97 million of the maturing securities that may be refunded by issuing additional amounts of the new notes at the average price of accepted competitive tenders.

Details about the new security are given in the attached highlights of the offering and in the official offering circular.

Attachment

HIGHLIGHTS OF TREASURY OFFERING TO THE PUBLIC OF 7-YEAR NOTES TO BE ISSUED OCTOBER 15, 1992

[September 30, 1992]

Amount Offered:	
To the public	$9,750 million.
Description of Security:	
Term and type of security.	7-year notes.
Series and CUSIP designation.	H–1999 (CUSIP No. 912827 H2 1).
Maturity date	October 15, 1999.
Interest rate	To be determined based on the average of accepted bids.
Investment yield	To be determined at auction.
Premium or discount	To be determined after auction.
Interest payment dates	April 15 and October 15.

HIGHLIGHTS OF TREASURY OFFERING TO THE PUBLIC OF 7-YEAR NOTES TO BE ISSUED OCTOBER 15, 1992—Continued

[September 30, 1992]

Minimum denomination available.	$1,000.
Terms of Sale:	
Method of sale	Yield auction.
Competitive tenders	Must be expressed as an annual yield, with two decimals, e.g., 7.10%.
Noncompetitive tenders	Accepted in full at the average price up to $5,000.000.
Accrued interest payable by investor.	None.
Key Dates:	
Receipt of tenders	Wednesday, October 7, 1992.
(a) noncompetitive	Prior to 12:00 noon, EDST.
(b) competitive	Prior to 1:00 p.m., EDST.
Settlement (final payment due from institutions):	
(a) funds immediately available to the Treasury.	Thursday, October 15, 1992.
(b) readily-collectible check.	Tuesday, October 13, 1992.

[FR Doc. 92–24165 Filed 10–1–92; 10:31 am]

BILLING CODE 4810–40–M

UNITED STATES INFORMATION AGENCY

English Teaching Advisory Panel Meeting

ACTION: Notice of meeting.

SUMMARY: The United States Information Agency announces a meeting of the English Teaching Advisory Panel on Monday November 9, and Tuesday, November 10, 1992, in room 840 at USIA Headquarters, 301—Fourth Street, SW., Washington, DC. The agenda will include discussion of USIA's world-wide English teaching programming, especially as executed by the English Language Programs Division. The Panel will review and discuss the activities of the Program, Materials Development and Forum branches of the Division. The Special Assistance Program for Central and Eastern European Countries (SEED III) will also be discussed as well as the Agency's English teaching programs and the "Family Album USA" project. There will be a discussion of the FY–93 budget as well as an open discussion on topics of professional concern affecting the execution of Division responsibilities. The Panel will also discuss the role played in English teaching overseas by other US government agencies, in particular Peace Corps and USAID.

DATES: November 9 and 10, 1992.

ADDRESSES: 301 Fourth Street, SW., Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Betty Taska at (202) 619–5869.

SUPPLEMENTARY INFORMATION: The November 9 meeting will be open to the general public. The November 10 meeting will be closed. In its final session on November 10, in preparing its report to the Director of USIA, the Panel will review information of a proprietary nature, including technical information and financial data, such as salaries. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act. Copies of the minutes can be obtained by calling (202) 619–5869.

Dated: September 29, 1992.

Betty Taska,

Chief, English Language Programs Division.

[FR Doc. 92–24033 Filed 10–2–92; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 4, 1992.

Dated: September 28, 1992.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information, Resources Policies and Oversight.

Revision

1. Supplemental Disability Report, VA Form 29–30a.
2. The form letter is used by the insured to supply information required to process a claim for disability benefits.
3. Individuals or households.
4. 548 hours.
5. 5 minutes.
6. On occasion.
7. 6,570 respondents.

[FR Doc. 92–24016 Filed 10–2–92; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use: (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey. NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 4, 1992.

Dated: September 28, 1992.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information, Resources Policies and Oversight.

Revision

1. Request for Approval of School Attendance, VA Forms 21–674 and 21–674c.

2. These forms are used to gather the necessary information to determine continued entitlement to benefits for a child between the ages 18 and 23 who is attending school.

3. Individuals or households.

4. 34,500 hours.

5. 15 minutes.

6. On occasion.

7. 138,000 respondents.

[FR Doc. 92–24017 Filed 10–2–92; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 4, 1992.

Dated: September 28, 1992.

By direction of the Secretary:

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information Resources Policies and Oversight.

Reinstatement

1. Quarterly Report of State Approving Agency Activities, VA Form 22–7398.

2. The form will be used by State Approving Agencies to report work performed pursuant to the provisions of the yearly reimbursement contracts.

3. State or local governments.

4. 248 hours.

5. 1 hour.

6. Quarterly.

7. 62 Respondents.

[FR Doc. 92–24018 Filed 10–2–92; 8:45 am]

BILLING CODE 8320–01–M

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The title of the information collection, and the Department form number(s), if applicable; (2) a description of the need and its use; (3) who will be required or asked to respond; (4) an estimate of the total annual reporting hours, and recordkeeping burden, if applicable; (5) the estimated average burden hours per respondent; (6) the frequency of response; and (7) an estimated number of respondents.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from Janet G. Byers, Veterans Benefits Administration (20A5), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3021.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, NEOB, room 3002, Washington, DC 20503, (202) 395–7316. Do not send requests for benefits to this address.

DATES: Comments on the information collection should be directed to the OMB Desk Officer by November 4, 1992.

Dated: September 28, 1992.

Frank E. Lalley,

Associate Deputy, Assistant Secretary for Information, Resources Policies and Oversight.

Extension

1. Certification of Delivery of Advance Payment and Enrollment, VA Form 22–1999V.

2. This form is used by educational institutions' certifying officials to certify delivery of advance payment and to report any changes in enrollment status. The information is used by VA to adjust benefits and, if necessary, to remove a bar to the future payment of benefits.

3. State or local governments; Non-profit institutions; Small businesses or organizations.

4. 3,261 hours.

5. 5 minutes.

6. On occasion.

7. 7,168 respondents.

[FR Doc. 92–24019 Filed 10–2–92; 8:45 am]

BILLING CODE 8320–01–M

Cooperative Studies Evaluation Committee; Meeting

The Department of Veterans Affairs gives notice under Pub. L. 92–463 (Federal Advisory Committee Act) as amended, by section 5 (c) of Public Law 94–409 that a meeting of the Cooperative Studies Evaluation Committee will be held at the Inn at Harvard, 1201 Massachusetts Avenue, Cambridge, MA on October 26 and 27, 1992. The session on October 26 is scheduled to begin at 7:30 a.m. and end at 5:30 p.m. and on October 27 from 7:30 a.m. to 1 p.m. The meeting will be for the purpose of reviewing five new clinical trials, one on type II diabetes; one on colonic adenomas; one on chronic dialysis; one on unstable angina; one on liver fibrosis and the progress of one on-going study on status epilepticus.

The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public up to the seating capacity of the room from 7:30 a.m. to 8 a.m. on both days to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. Ping Huang, Coordinator, Cooperative Studies Evaluation Committee, Department of

Veterans Affairs, Washington, DC (202–535–7154), prior to October 16, 1992.

The meeting will be closed from 8 a.m. to 5:30 p.m. on October 26, 1992 and from 8 a.m. to 1 p.m. on October 27, 1992, for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5(c) of Public Law 94–409, and 5 U.S.C. 552b (c)(6). During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: September 1, 1992.

Diane H. Landis,

Committee Management Officer.

[FR Doc. 92–24020 Filed 10–2–92; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 193
Monday, October 5, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:05 a.m. on Wednesday, September 30, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Reports of the Office of Inspector General.

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Application of Bank of Hawaii, Honolulu, Hawaii, for consent to acquire all the insured and outstanding stock of BNE Airfleets Corporation, Barbodos, West Indies.

Request for review of a previous denial of a bank's request for relief from reimbursement under the Truth in Lending Simplification and Reform Act.

Matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), concurred in by Ms. Judith A. Walter, acting in the place and stead of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), and Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the pubic interest did not require consideration of the matters in a meeting open to public observation; and that matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: September 30, 1992.

Federal Deposit Insurance Corporation.

[FR Doc. 92-24173 Filed 10-1-92; 10:42 am]

BILLING CODE 6714-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 5, 12, 19, and 26, 1992.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 5

Wednesday, October 7

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 12—Tentative

Wednesday, October 14

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 19—Tentative

Wednesday, October 21

11:30 a.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 26—Tentative

Tuesday, October 27

3:30 p.m.

Affirmation/Discussion and Vote (Public Meeting) (if needed)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no items has as yet been identified as requiring any Commission vote on this date.

To verify the status of meeting call (recording)—(301) 504-1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504-1661.

Dated: September 30, 1992.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 92-24177 Filed 10-1-92; 11:03 pm]

BILLING CODE 7590-01-M

Corrections

Federal Register
Vol. 57, No. 193
Monday, October 5, 1992

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 90-12; FAR Case 92-18]

Federal Acquisition Regulation; Cost Accounting Standards

Correction

In rule document 92-20667 beginning on page 39586 in the issue of Monday, August 31, 1992, make the following correction:

52.230-2 [Corrected]

1. On page 39592, in the third column, in section 52.230-2, in the clause, in paragraph (b), in the second line, "compiled" should read "complied".

2. In a correction to this document published on page 45422 in the issue of Thursday, October 1, 1992, in the second column, in the third line, "August 31" should read "September 21".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

RIN 0960-AD15

Federal Old-Age, Survivors and Disability Insurance Benefits; Revision of Appendices, Tables, and Lists

Correction

In rule document 92-23101 beginning on page 44095 in the issue of Thursday, September 24, 1992, make the following corrections:

Appendix II of Subpart C of Part 404 [Corrected]

1. On page 44096, in the third column, in appendix II of subpart C of part 404, in the table, for the year 1988, in the second column, "1,601" should read "1,603".

Appendix V of Subpart C of Part 404 [Corrected]

2. On page 44097:

a. In the first column, in appendix V of subpart C of part 404, in the table for December 1987, in the entry for 29, in the second column, "573.00" should read "573.30".

b. In the second column, in appendix V of subpart C of part 404, in the table for December 1991, in the entry for 13, in the first column, "71.600" should read "71.60".

Appendix VII of Subpart C of Part 404 [Corrected]

3. On page 44097, in the third column, in appendix VII of subpart C of part 404, for the year 1992, the amount reading "41.400" should read "41,400".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-02-4212-13; N-55815]

Realty Actions; Sales, Leases, etc.: Nevada

Correction

In notice document 92-18318 beginning on page 34302 in the issue of Tuesday, August 3, 1992, make the following correction:

On the same page, in the third column, in the land description, under T. 45 N., 61 E., in Sec. 25, in the first line, "E½SE¼SE¼SE¼," should read "E½SE¼SW¼SE¼,".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose a Passenger Facility Charge (PFC) at Valdosta Regional Airport, Valdosta, GA

Correction

In notice document 92-22990 beginning on page 43771 in the issue of Tuesday, September 22, 1992, make the following correction:

1. On Page 43772, in the first column, in the second paragraph, in the third line, "$3,000" should read "$3.00".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8418]

RIN 1545-AJ67; 1545-AO14; 1545-AO33; 1545-AQ19; 1545-AO19; 1545-AO15

Arbitrage Restrictions on Tax-exempt Bonds

Correction

In rule document 92-11321 beginning on page 20971 in the issue of Monday, May 18, 1992, make the following corrections:

§ 1.148-0 [Corrected]

1. On page 20978, in the third column, in § 1.148-0(b)(4), in the fourth line, "ST(c)(2)" should read "5T(c)(2)".

§ 1.148-1 [Corrected]

2. On page 20982, in the third column, in § 1.148-1(b)(ii), in the ninth line "§ l.148-2" should read "§ 1.148-2".

§ 1.148-2 [Corrected]

3. On page 20984, in the second column, in § 1.148-2(b)(2)(iii), in the 12th and 13th lines "*present value*" and "*fair market value*" should read in quotations as follows: "present value" and "fair market".

4. On page 20986, in the first column, in 1.148-2(c), *Example 3.*, paragraph (iii), the second line should read as follows: "Total of previous rebate payments.....$143,631.67". Also, in the paragraph (iv), in the fourth line, "(1/01/01" should read "(1/01/01)".

§ 1.148–3 [Corrected]

5. On page 20997, in the first column, in the third column of the first table, in the second from the last line, the figure "2,007,882.671" should read "2,007,882.67".

6. On page 21005, in the second column, in the first column of the table, in the last line, "(9/01/93)" should read "(3/01/91)". Also, in the third column, in the first column of the table, in the last line, "(3/01/91)" should read "(9/01/93)".

§ 1.148–6 [Corrected]

7. On page 21013, in the first column, in § 1.148–6(b)(5)(ii), in the eighth line, "*transfer*" should read in quotations as follows: "transfer".

8. On page 21019, in the first column, in § 1.148–6(m)(4), in the fourth line, "dateon" should read "date on".

§ 1.148–11 [Corrected]

9. On page 21025, in the second column, the section should read as set forth above.

10. On page 21029, in the third column, in § 1.148–11(j)(3), in the second line, "use" should read "issue".

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8426]

RIN 1545–AB48

Certain Returned Magazines, Paperbacks or Records

Correction

In rule document 92–20087 beginning on page 38595 in the issue of Wednesday, August 26, 1992, make the following corrections:

§ 1.458–1 [Corrected]

1. On page 38597, in the first column, in § 1.458–1(b)(5), in the first line, "(1)" should read "(i)".

2. On page 38598, in the third column, under § 1.458–1(e)(4)(i), in the fourth line from the end, after "($8)," "the " should read "is".

3. On the same page, in the same column, in § 1.458–1(e)(4)(iii), in the eighth line, "for gross" should read "from gross".

4. On the same page, under § 1.458–1(e)(4)(v), in the table, in the 1980 column "(3)" and "$(2)" should read "(3)" and "$(2)" respectively, and in the 1981 column "(2)" should read "(2)".

BILLING CODE 1505–01–D

federal register

Monday
October 5, 1992

Part II

Postal Service

39 CFR Part 111

Preparation Requirements for Letter-Size ZIP+4 Rate and Letter and Flat-Size ZIP+4 Barcoded Rate Mailings; Final Rule

POSTAL SERVICE

39 CFR Part 111

Preparation Requirements for Letter-Size ZIP+4 Rate and Letter and Flat-Size ZIP+4 Barcoded Rate Mailings

AGENCY: Postal Service.

ACTION: Final rule with requests for comments.

SUMMARY: This rule adopts Domestic Mail Manual (DMM) regulations that add revised options in DMM Chapter 5 for the preparation of all letter-size First-, second-, and third-class ZIP+4 rate and ZIP+4 Barcoded rate mailings. Following a transition period, this rule will require the preparation of all such mailings in accordance with one of the options in DMM Chapter 5, and will eliminate the provisions on preparation of letter-size pieces to qualify for ZIP+4 rates and ZIP+4 Barcoded rates in DMM Chapters 3, 4, and 6. These revised options require all letter-size mailings to be prepared in trays, provide for preparation of AADC trays in package-based mailings, and require 100 percent ZIP+4 Barcoded or delivery point barcoded mail in the portion of the mailing sorted to 5-digit ZIP Codes. This rule also moves to Chapter 5 the general eligibility and postage payment requirements for flat-size ZIP+4 Barcoded rate mailings that now appear in Chapters 3, 4, and 6. Consequently, this rule will consolidate all requirements for automation-based rates in one location in the DMM. This final rule deals primarily with presortation and documentation requirements and does not affect current mailpiece preparation rules.

Although these regulations are to take effect on October 5, 1992, further comments on these rules are solicited, and will be considered and acted upon as appropriate.

DATES: *Effective Date:* October 5, 1992. See **"SUPPLEMENTARY INFORMATION"** for further information about compliance dates. *Comment Date:* Written comments on these regulations should be received on or before December 4, 1992.

ADDRESSES: All written comments should be mailed or delivered to the Vice President, Customer Service Support, U.S. Postal Service, room 5610, 475 L'Enfant Plaza, SW., Washington, DC 20260–5903. The comments should be sent to the attention of Lynn Martin. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in room 8430 at the above address.

FOR FURTHER INFORMATION CONTACT: Mrs. Lynn M. Martin, (202) 268–5176.

SUPPLEMENTARY INFORMATION:

Original Proposal

On May 7, 1992, the Postal Service published a proposed rule in the **Federal Register** (57 FR 19698–19747) to make the presort and corresponding documentation options in DMM Chapter 5 the only presort options available for preparation of letter-size mail qualifying for ZIP+4 rates and ZIP+4 Barcoded rates. It also proposed that December 20, 1992, be the date that DMM Chapter 5 preparation would be required. This proposed rule also made organizational changes to move all requirements for letter-size automation mailings, including eligibility and postage payment requirements, to DMM Chapter 5.

The Postal Service initiated these proposed revisions to simplify the preparation requirements for automation-based rates, and to make the preparation requirements more compatible with customer mailing needs and Postal Service operating needs. Currently, the DMM contains separate preparation requirements for each class of letter-size automation rate mail: In Chapter 3 for First-Class Mail, in Chapter 4 for second-class mail, and in Chapter 6 for third-class mail. In each of these chapters there are at least two different ways to prepare ZIP+4 rate mail, and at least two different ways to prepare letter-size ZIP+4 Barcoded rate mail. The presortation and preparation requirements for letter-size automation rate mailings in each of these chapters were originally modeled after the non-automation presort requirements previously established for the applicable class of mail. This has resulted in different preparation requirements for automation-based rates among these classes of mail, and in some instances, requirements that do not produce the best mail for processing through the Postal Service's automated equipment.

The proposed revisions set forth preparation requirements for letter-size automation-based rates that are essentially the same for First-, second-, and third-class mailings, consolidated all the requirements for automation-based rates in one chapter of the DMM (Chapter 5), and required traying and other preparation needed to reflect current Postal Service operational needs.

On the basis of the comments received and further consideration of the proposals by the Postal Service, the Postal Service has decided to adopt the proposed regulations for letter-size automation rate mailings, with the revisions detailed below. In addition, the regulations governing ZIP+4 Barcoded rates for automation-compatible flat-size mailings are relocated to Chapter 5, consistent with the Postal Service's decision to reorganize the DMM to put all eligibility and postage payment requirements for automation compatible letter-size mailings in Chapter 5.

The reader should note that the Postal Service has previously announced that it plans to require a delivery point barcode (DPBC) as a condition of eligibility for all barcode discounts for letter-size mail, effective March 21, 1993—the date on which many of the requirements described in this rule will take effect. See DMM, issue 42, 531.112 (March 15, 1992). Since the implementation of that change is subject to further regulatory action, this rule is limited to "ZIP+4" barcoded rates for letter-size mail. However, it is anticipated that the presort and documentation changes described here would also apply to any barcoded rates for which a delivery point barcode would be required.

Compliance Dates

Mailers may use the new preparation options established by this final rule in DMM 562.1, 563, 564.1, 565, 566, and 569 to prepare letter-size mailings for ZIP+4 rates or for ZIP+4 Barcoded rates on October 5, 1992. On March 21, 1993, these preparation options will be the only options available for preparation of letter-size ZIP+4 and letter-size ZIP+4 Barcoded rate mailings. Until that time, the pre-existing preparation options under DMM Chapter 5—DMM 562.2, 564.2 (formerly 563.2), and 567 (formerly 564)—may continue to be used. Also, until March 21, 1993, the preparation options in DMM Chapters 3, 4 and 6 for automation-based mailings may continue to be used.

The additional and clarifying information added to pre-existing tray-based ZIP+4, tray-based ZIP+4 Barcoded, and package-based ZIP+4 Barcoded preparation options (DMM 562.2, 564.2, and 567) contained in this final rule may be used beginning October 5, 1992; conformance will be mandatory on December 20, 1992, with issue 45 of the DMM. These additions and clarifications:

(1) Provide traying instructions for military mail not previously covered by DMM Chapter 5.

(2) Specifically allow additional sortation of residual mail in accordance with Management Instruction DM–140–91–01 which allows local authorization

of multiple acceptance times for First-Class Mail.

(3) Allow use of the new abbreviated documentation and mailing job documentation provisions set forth in DMM 568 of this final rule. (The summary listing and mailing list or cycle provisions currently contained in DMM Chapters 3 and 6 may still be used by First- and third-class mailers, including those preparing mail under pre-existing DMM Chapter 5 requirements (DMM 562.2, 564.2, and 567, until March 21, 1993).

(4) Clarify the types of additional tray separations that are required for residual mail in certain kinds of mailings under the physical separation preparation option; and clarify the additional information that is necessary in the documentation for certain kinds of mailings to account accurately for postage owed for all rate categories in those mailings.

(5) Permit mailers to prepare a less than full SCF tray to the SCF serving the post office where the mailing is entered under the pre-existing tray-based ZIP+4 Barcoded rate regulations (DMM 564.2).

(6) Clarify that 5-digit trays are optional within tray-based mailings, and 5-digit packages are optional within package-based mailings at ZIP+4 Barcoded rates. Further clarify that mailers need not prepare all possible 5-digit trays within tray-based mailings nor all possible 5-digit packages within package-based mailings. (See the note under DMM 564.232b(1) and see DMM 567.13.)

(7) Specifically state that when "exact postage affixed" or "lowest rate in the mailing affixed" is used for First-Class mailings, postage for any additional ounces must be affixed to each piece (see DMM 580). Clarify that when postcard-rate and letter-rate pieces are contained in the same mailing, the postcard-rate pieces must be metered at the postcard rate and letter-rate pieces must be metered at the letter rate.

The provisions in the pre-existing tray-based preparation options (DMM 562.2 and 564.2) allowing use of 1-foot trays only through December 20, 1992, remain in effect. Beginning December 21, 1992, mailings prepared under any DMM Chapter 5 preparation option in 560 for letter-size mail must be prepared in 2-foot trays. The Postal Service has discontinued procurement of 1-foot trays, and therefore will not permit use of these trays for automation rate mail with DMM Chapter 5 preparation past the December 20, 1992, date previously set.

The provisions in the pre-existing tray-based preparation option for ZIP+4 Barcoded rate mail (DMM 564.2—formerly DMM 563) requiring that all pieces in 5-digit trays be 100% ZIP+4 barcoded or delivery point barcoded on December 21, 1992, are eliminated. Accordingly, mailers using DMM 564.2 preparation, or the barcoded mail preparation options in DMM Chapters 3, 4, and 6, will not be required to prepare the 5–digit portion of their mailings so that it contains 100 percent ZIP+4 barcoded or delivery point barcoded pieces until March 21, 1993, when the new preparation options under DMM Chapter 5 become mandatory. (Mailers using preparations options under DMM 564.1, 565, 566, or 567 must currently meet the 100 percent ZIP+4 barcoded or delivery point barcoded requirement.)

Evaluation of Comments Received

The Postal Service received 9 comments on the proposed rule, including 3 from mailing industry trade associations, 2 from mailing related businesses, and 4 from companies and corporations. The topics covered in those comments are discussed below.

Consolidation of All Automation Regulations in Chapter 5

Two commenters expressed support for the Postal Service's efforts to consolidate all of the requirements for automation based rates within Chapter 5 of the DMM. One of these commenters indicated this will make it easier to use the DMM.

Effective Dates

Two comments were received concerning the proposed December 20, 1992, effective date for required use of one of the preparation options in DMM Chapter 5 to mail at ZIP+4 or ZIP+4 Barcoded rates. One commenter, citing the complexity of the proposed rule, stated that the Postal Service should delay the December 20, 1992, implementation date, unless the industry has by then embraced the new Chapter 5 preparation options.

The other commenter stated that his company schedules the printing and preparation of renewal notices three months in advance of the renewal month. The commenter stated that the proposed effective date of December 20, 1992, would require significant modifications to the company's automated program that generates mailing reports before the end of October 1992, and that the major impact on its operations would be the requirement for 100 percent ZIP+4 barcoded or delivery point barcoded pieces in the 5-digit portion of their mailings. This commenter requested a one-year extension of the effective date for mandatory use of Chapter 5.

In order to give mailers sufficient time to adapt to the new requirements, the Postal Service has decided to delay the required use of Chapter 5 preparation for automation-based mailings until March 21, 1993. This lead time of nearly 6 months should give mailers who have not already converted to Chapter 5 preparation sufficient time to do so. For mailers preparing tray-based ZIP+4 Barcoded rate mailings under DMM 562.2, the effective date for 100% ZIP+4 barcoded or delivery point barcoded pieces within the portion of the mailing sorted to 5-digits will also be moved to March 21, 1993. This will allow mailers currently preparing mail under tray-based regulations to make only one software change between now and March 21, 1993.

The Postal Service does not believe an extension past March 21, 1993, is warranted. By March 1993, the Postal Service will have significant deployment of barcode sorters in associate offices and stations and branches in addition to General Mail Facilities (GMFs). This deployment will reduce or eliminate the need for manual distribution at these locations, and will result in the Postal Service having limited capacity to process nonbarcoded mail manually in associate offices and stations and branches. Accordingly, mailpieces that do not bear a ZIP+4 barcode or delivery point barcode may have to be sent back to the GMF for processing. This additional transportation and distribution will negatively impact service and increase the Postal Service's operational costs. Therefore, although the Postal Service recognizes that requiring 100 percent ZIP+4 or delivery point barcoding of mailpieces in the 5-digit portion of a ZIP+4 barcoded mailing will cause mailers to incur some up-front operational expenses, and that it may have some effect on rate eligibility, the Postal Service does not believe it would be operationally sound to continue to accept non-ZIP+4 barcoded pieces in the 5-digit portion of ZIP+4 barcoded mailings after March 21.

Preparation of AADC Trays and Other Presort Changes

Although no formal comments were received on this subject in response to the May 7, 1992, proposed rule, the Postal Service has recently received general comments, that indicate concern over the number of trays needed to prepare letter-size mailings under Chapter 5. These mailers have indicated that the less-than-full tray issue also affects a second- or third-class mailer's ability to take advantage of drop

shipment discount rates since it causes their trailer density to be too low to justify drop shipment. Some mailers have requested permission to place mail prepared in 5-digit and 3-digit packages in Automated Area Distribution Center (AADC) trays and have such packages qualify for ZIP+4 Barcoded rates. These mailers have indicated that when the SCF tray is the last tray level in the mailing for qualifying pieces, the number of trays needed to prepare a mailing increases dramatically, and that the majority of SCF trays contain few pieces. One mailer stated that the majority of the SCF trays they prepare under DMM Chapter 5 package-based regulations are only ¼ full.

In view of these comments, and the impact of large numbers of less-than-full trays on postal operations, the Postal Service has revised Chapter 5 preparation requirements to minimize the number of less than full trays in a mailing. For package-based ZIP+4 and ZIP+4 Barcoded rate mailings prepared under DMM 563, 565, and 566, SCF trays are to be prepared only when full and a required AADC tray has been added to the preparation requirements. (DMM 563 is a new two-tier package-based preparation option for ZIP+4 rate mailings.) 5-digit and 3-digit packages in AADC trays will qualify for the applicable 3/5 ZIP+4 presort rates under DMM 563 preparation. Under DMM 565 and DMM 566 preparation, 5-digit packages in AADC trays can qualify for the 5-digit ZIP+4 Barcoded rates and 3-digit packages in AADC trays can qualify for the 3-digit ZIP+4 barcoded rates. The Postal Service is currently in the process of revising the AADC list in DMM exhibit 122.63t to facilitate this sortation. Revisions to this list will be published shortly in the Postal Bulletin.

To further reduce the number of trays mailers will need to prepare a ZIP+4 Barcode rate mailing under DMM Chapter 5, the final rule introduces in DMM 565 a new two-tier package-based option for ZIP+4 Barcoded rate mailings that will allow mailers to combine 5-digit and 3-digit packages in the same trays. (As noted above this new option also requires preparation of AADC trays.)

Since packages in AADC trays will be distributed manually, packaging of all 5-digit and 3-digit groups in AADC trays will be required under the new package-based preparation options. Separator cards will not be permitted in AADC trays.

The AADC tray level has not been added to the tray-based ZIP+4 Barcoded rate preparation requirements. Since tray-based ZIP+4 Barcoded rate preparation has always required full SCF trays, use of this preparation option does not result in large quantities of less-than-full trays. Furthermore, since mail prepared in AADC trays must be packaged to facilitate distribution of the groups of pieces in these trays, it is not compatible with the tray-based mailing option in which packages generally are not prepared.

The AADC tray level has also not been added to the tray-based ZIP+4 option in 562 because it would require packaging. This would not be compatible with the concept of tray-based mailings, as discussed above. To eliminate the incidence of large numbers of less-than-full SCF trays, which are currently permitted in tray-based ZIP+4 rate mailings, a new DMM 562.1 tray-based preparation option is added that requires SCF trays for all classes to be full, and requires pieces remaining after preparation of full SCF trays to be prepared in residual trays labeled to the origin SCF. This new option will supersede the option in 562.2 on March 21, 1993. Under the new option pieces in full SCF trays will receive 3/5-digit presort ZIP+4 rates.

Pieces in residual trays can qualify for First-Class single-piece rates or second- or third-class basic rates. Within second- and third-class mailings, this could result in a larger number of pieces qualifying for 3/5-digit presort ZIP+4 rates since pieces in SCF trays now qualify only for basic rates. In First-Class mailings, the new preparation option could result in fewer pieces receiving a 3/5-digit ZIP+4 Presort rate since the First-Class 3/5-digit ZIP+4 Presort rates apply to groups of 50 or more pieces to a 3-digit area within less-than-full SCF trays. To avoid a negative impact on First-Class mailers the Postal Service is introducing a new package-based ZIP+4 presort rate preparation option in DMM 563, under which any group of 10 or more pieces to a 5-digit ZIP Code area or 50 or more pieces to a 3-digit ZIP Code area may qualify for the ZIP+4 Presort rate when properly packaged and trayed.

The new DMM 562.1 option for tray-based ZIP+4 mailings will simplify the regulations by making tray-based ZIP+4 presort requirements for First-Class the same as those for second- and third-class mailings (with the exception of the required groups of 50 or more pieces per 3-digit area in 3-digit and SCF trays for First-Class Mail and the addition of optional city trays for second-class mail). It will also simplify the regulations by making the requirements for ZIP+4 tray-based mailings basically the same as those for tray-based letter-size ZIP+4 Barcoded rate mailings. This in turn will make it easier for mailers to make a transition from ZIP+4 rate mailings to ZIP+4 Barcoded rate mailings.

The existing three-tier packaged based option will remain as an option, with the aforementioned new requirement for preparation of an AADC tray under new DMM 566.

In order to allow mailers already preparing mail under Chapter 5 sufficient time to make the software and operational changes necessary to add the AADC sortation to their mailing procedures, and for other reasons outlined below, the effective date for required use of the revised Chapter 5 sortations is extended to March 21, 1993.

Traying of Letter-Size Mail Exceeding Dimensions of Trays

Four comments were received concerning the Chapter 5 requirement to prepare all automation-based letter-size mailings in trays, even those containing mailpieces that exceed the dimensions of the standard letter trays. Three of these commenters stated that requiring mail that is more than 4½ inches high to be laid in the tray at an angle is a cumbersome and unsatisfactory procedure. Two of these commenters indicated that it is not possible to write software that will accurately predict when pieces to a destination will fill a tray if the angle at which pieces are placed in the tray must be considered, particularly when pieces of various sizes are combined in the same mailing. One commenter indicated that when mail is placed sideways in trays and tilted backwards to fit in the tray, it will take at least twice as many trays to prepare a mailing as it would if there were a deeper tray in which to prepare these pieces.

One commenter stated that Chapter 5 tray preparation should be mandatory only for those pieces which fit properly in the current 2-foot tray. Another commenter stated that Chapter 5 traying regulations should become mandatory only when trays large enough to accommodate letters measuring up to 6⅛ inches high by 11 inches long are available for use by mailers. Another commenter stated that if it is not possible for the Postal Service to provide adequate stocks of trays that will accommodate larger letters, then Chapter 5 should be amended to permit sacking of such larger letter-size pieces.

In response to these concerns, the Postal Service is planning to purchase larger trays (extended trays) which measure 6⅛ inches high by 11½ inches wide by 2 feet in length (measured from the bottom interior of the tray). It is

anticipated that these trays will be available for use by March, 1993. Therefore, the Postal Service is delaying required use of Chapter 5 preparation options until March 21, 1993. This will allow mailers of larger letter-size pieces to continue to prepare barcoded rate mail in sacks under the provisions of Chapter 4 or 6 until the extended trays are available for their use.

Mailers may also follow the current provisions for placing larger letter-size pieces in standard trays (new DMM section 561.23 and 561.24) until the extended trays are available. If it is subsequently determined that the extended trays will not be available for mailer use March 21, 1993, Chapter 5 will be amended to permit on an interim basis sacking of pieces that exceed the dimensions of standard trays under Chapter 5 procedures. More details on such sacking requirements will be provided if they become necessary. Once the extended MM trays are available, mailers will be required to use them for larger pieces and the applicable provisions in DMM 561.23 and 561.244 pertaining to placement of oversized pieces in standard trays will be deleted (together with any interim sacking provisions that may have been added).

Packaging of Postcard-Size Mailpieces

One commenter indicated that the Postal Service should develop a separate tray for postcard-size mailpieces, rather than require mailers to package postcard-size pieces in standard 2-foot trays.

The Postal Service does not plan to procure a separate tray for use with smaller postcard-size pieces. Maintaining an inventory of several different tray sizes imposes a significant burden on the Postal Service. The Postal Service already plans to add the extended tray to its inventory, and cannot, at the present time also afford to purchase and maintain an inventory of smaller trays. Accordingly, as explained in the proposed rule, the packaging of postcard-size pieces in standard 2-foot trays will be required to preserve the orientation of the pieces in the tray under the new presort options provided in this final rule (562.1, 563, 564.1, 565, and 566). However, this requirement will not apply where postcard-size pieces are intermingled with large pieces. Mailers will be required to use one of these new options beginning March 21, 1993.

Disparate Preparation Requirements for Different Elements of a Letter-Size Mailstream—Carrier Route, Presort, and Residual Mail

Current regulations permit traying of carrier route mailings only for mail originating and destinating within an SCF area, and only with the permission of the local postmaster. Three commenters stated that the final rule should permit mailers to tray carrier route mailings as well as the ZIP+4 or ZIP+4 barcoded mailings prepared as part of the same mailing job. Two of these commenters stated that requiring the carrier route portion of the mailstream to be sacked and the automation rate portion to be trayed creates added expense for mailers that could be avoided by allowing traying of carrier-route pieces.

One commenter pointed out that even if the Postal Service allows carrier route mail to be trayed, there are other features of Chapter 5 regulations that hinder preparation of carrier route and automation rate mail as a single mailstream. For example, plastic strapping of packages is permitted for securing carrier route packages, but only rubber bands are permitted for automation rate packages. These commenters stated that the Postal Service should consider permitting plastic strapping under Chapter 5, or permit separator cards for carrier route. They stated that requiring rubber bands for both carrier route and automation mail would result in slower machine speeds and make strapping machines obsolete for too many mailers.

One commenter stated that the software used by his company will not allow the portion of his mailing list sorted to carrier route to be broken out and run as a separate stream so that all carrier route mail for a job could be processed differently than the automation-compatible portion that must be presented in trays. Furthermore, the software allows traying of carrier route mail only for mail within an SCF area, as this is all the DMM currently permits.

One commenter recommended that mailers be allowed to combine carrier route and automation mailings on the same mailing statement.

At the present time the Postal Service will not extend traying of carrier route mail beyond the current provisions for mail both entered and destinating within the same SCF area. When the required use of trays for all automation rate mail takes effect March 21, 1993, the number of trays needed by mailers will greatly increase (due to their moving from sacked mailings in Chapters 3, 4, and 6). The Postal Service needs to make sure that enough trays are available for the automation rate portion of mailer mailstreams before extending use of trays to non-automation rate mailings. In addition, widespread use of trays for carrier route mail would greatly increase the number of trays that postal personnel must inspect to determine whether their contents are a candidate for processing on OCRs, and it would also increase the chance that carrier route mail would be run on OCRs, which would negate the value of the carrier route sortation. This could increase the cost to the Postal Service of handling carrier route mail, which is paid at the lowest available rates. The issue of traying carrier route mail will be reconsidered at a later date once we learn the number of trays required for automation rate mailings, and after experience with handling automation rate second- and third-class mailings in trays has been gained. Since carrier route mail and automation rate mail must be prepared as two separate mailings, separate mailing statements will continue to be required for the carrier route mailings and for ZIP+4 rate and ZIP+4 Barcoded rate mailings.

Requirement To Use Rubber Bands for Packaging

The final rule will permit the use of plastic strapping or string as a method of preparing packages in automated rate mailings under Chapter 5. Based on the comments discussed above, and the large number of comments received on this issue since the requirement to use rubber bands was originally proposed, the Postal Service recognizes that requiring use of rubber bands for packaging automated mail is a hardship to those second- and third-class mailers currently deploying automated equipment that prepares packages with plastic strapping.

Methods of Transporting Trays—Use of Pallets or Other Equipment

One commenter asked if the mailer will be required to unload bedloaded trays. Two commenters requested that regulations for trays on pallets be available before second- and third-class mailers are required to prepare automation-rate mail in trays. One of these commenters indicated, however, that trayed mail on pallets requires more pallets than are used with sacked mail, and that this situation has an adverse impact on drop shipment programs. The commenter stated that since the savings on drop shipment apply to the total mailstream (and not just the automation-rate portion that comprises only about

35% of the mailstream), he will choose to forego automation-based discounts in favor of sacking the entire mailstream and taking advantage of drop shipment discounts for the entire mailstream. This commenter further suggested that the Postal Service revise the 84-inch height limit on double stacking of pallets to coincide with the commercial trucking practice of 96 inches to allow some of the "lost" volume from mail in trays to be made up.

One mailer commented that the Postal Service has in the past suggested that for a mailer to be eligible to use trays the mailer would also have to enter the Postal Service's palletization program officially. The mailer expressed concern about this policy because they do not have sufficient volumes to make up full pallets to finer sorts, such as SCFs.

Mailers who bedload trays will be required to unload the trays at the time of acceptance only when claimed at a second- or third-class destination entry rate under 624.717d(2) (DMM Issue 44). The Postal Service expects to have procedures in place before the end of calendar year 1992 which will allow mailers to place trays of automation rate mail on pallets. It is likely that preparation of trays on pallets will require sortation of trays to pallet destinations. However, palletization of trays will be a voluntary option for mailers, not a requirement. The height restrictions for pallets will also be examined in the near future for possible changes. Mailers will have to assess the financial impact on their operations of the preparation requirements for various rate options when determining whether to prepare mail for automation discounts.

Requirement To Prepare First-Class Postcard-Rate Mail and First-Class Letter-Rate Mail in Separate Mailings

One commenter disagreed with the statement in the proposed rule that combining postcard-rate and letter-rate First-Class Mail in the same mailing would require extremely complex documentation regulations. The commenter stated that as long as the discount rates for both letter-size and postcards are the same there should not be any complexity.

Another commenter indicated his company has been combining letter-rate and postcard-rate First-Class Mail for some time and is able to provide the necessary documentation. He requested that mailers be allowed to continue preparation in this manner stating that this would allow mailers to obtain greater discounts and reduce the Postal Service's handling costs by reducing the number of trays, pallets and mailing statements.

Although the difference between the Presorted First-Class rate and the barcoded rates is the same for cards and letters, the difference between the ZIP+4 or ZIP+4 barcoded rates and the single piece rates that apply to residual pieces in such mailings is not the same. For example the difference between the single piece rate for letters ($0.29) and the 5-digit ZIP+4 Barcoded rate ($0.233) is $0.057; whereas the difference between the single piece rate for cards ($0.19) and the 5-digit ZIP+4 Barcoded rate ($0.155) is $0.035. Therefore, for residual mail there is an additional rate differential between qualifying pieces and single piece rate pieces that must be accounted for when postage is metered at the lowest rate in the mailing.

Since some mailers state they can use documentation procedures to account accurately for additional postage under this circumstance, the final regulations will permit card rate and letter rate mailpieces to be presorted together in the same mailing provided additional documentation is provided. The final regulations set forth the additional documentation requirements, both in the ZIP Code listing and summary portions, and further require that metered mailings have cards metered at the card rate and letters metered at the letter rate (including any additional postage for additional ounces). In addition, mailers using the physical separation option to prepare residual mail must prepare separate trays for postcard-rate pieces.

Ability of Postal System To Handle Large Volumes of Trays for Second- and Third-Class Mail

One mailer stated that the postal field facilities that handle third-class mail were originally designed to handle sacks and that postal personnel at BMCs are concerned as to whether they will be able to handle trays at that level. The commenter indicated that postal field personnel handling this mail should be made conversant with the Postal Service's intended regulations.

Trays can be easily processed through BMCs on parcel or sack sorting equipment. Since trays brought from the mailer's plant to BMCs are required to be strapped, sortation on BMC parcel or sack sorters should not be a problem. BMC personnel will be made aware of the new regulations and will be allowed to gain experience processing trays of automation rate mail before a large influx of trayed mail at other rate categories is permitted in the mail system.

Standardized Format for Documentation

One commenter indicated that it is essential that major manufacturers and their software vendors meet with the appropriate Postal Service staff personnel to assure uniformity of documentation format before promulgation of the final rule.

The Postal Service plans to hold a meeting concerning the requirements of the final rule for all interested software vendors. The time and date of the meeting will be announced in the **Federal Register**. Furthermore, the final regulations allow variations on the recommended formats, provided all required information is provided on a single report in a manner that is easily understandable to postal employees. There is an exception to the single report requirement for second-class combination mailings.

Barcoding Through CASS Certified MLOCRs

One commenter was concerned that a portion of the preamble to the proposed rule was misleading in that it stated that "all mailers must use CASS certified software to ZIP+4 code or delivery point code mailing lists used in automation rate mailings." The commenter stated it was his understanding that mailing lists used in automation rate mailings do not have to be CASS certified as long as the pieces are processed through MASS certified MLOCR systems.

The commenter's understanding is correct. The Postal Service uses the term "CASS Certification" to encompass use of CASS certified MLOCR equipment (also known as "MASS certified" equipment). This is stated in DMM section 531.112.

Support Automated Site Package-Based ZIP+4

One commenter who mails at ZIP+4 Presort rates indicated support for the inclusion of an automated site sortation option within the new ZIP+4 presort package-based regulations that require only preparation of 3-digit groups/packages, stating that she was pleased to see this option in the proposal because of concern about her company's ability to continue to qualify for ZIP+4 rates. The commenter urged adoption of this option in the final rule.

The provision for automated site package-based ZIP+4 Presort rate mailings is included in the final rule. The automated site provisions that allow mailers to omit preparation of mail to 5-digit destinations within either the new tray-based ZIP+4 option (DMM 562.1) or the new package-based ZIP+4 option

(DMM 563) have been placed in separate sections (rather than being provided for in footnotes as in the proposed rule) in order to make the requirements easier to understand.

Ability of Small Mailers To Obtain Discounts

One commenter indicated that traying regulations are "devised for large companies without any concern for the small mailers at all."

The package-based preparation options in Chapter 5 should give smaller mailers access to automation based rates provided they can meet the minimum quantity requirements for a bulk mailing. The Postal Service added a package-based preparation option for ZIP+4 Barcoded rate mail to the DMM effective November 14, 1991. This preparation option allows mailers to qualify for ZIP+4 Barcoded rates based upon the number of pieces in a package (10 ZIP+4 or delivery point barcoded pieces to a 5-digit ZIP Code destination and 50 pieces to a 3–digit destination). The "last" tray level in a package based mailing does not need to be full. Therefore, once the package qualification has been met, mailers do not need to fill trays to particular destinations to qualify for barcoded rates. An additional package-based preparation option for ZIP+4 Barcoded rate mail is added in this final rule, as well as a package-based preparation option for ZIP+4 rate presort mail. In addition, the Postal Service also offers nonpresorted ZIP+4 rates for all First-Class letter-size mailings, and a nonpresorted ZIP+4 Barcoded rate for First-Class postcard-rate mailings. These nonpresorted rates offer smaller discounts for nonpresorted First-Class Mail that has been ZIP+4 coded or ZIP+4 or delivery point barcoded by mailers using CASS certified procedures. Also, the minimum quantity requirements for First-Class nonpresorted automation-based rates are smaller than those for presort rates.

September 20 Effective Date for Barcode Clear Zone on Address Block Barcoded Mailpieces

One commenter raised again the issue of requiring in 551.4 a barcode clear zone on all pieces in an address block barcoded mailing that is prepared without ZIP+4 or delivery point barcodes.

This comment is not related to the subject matter of the proposed rule. This issue was addressed at length in the final rule published October 16, 1991, 56 FR 51838. The regulations governing this preparation option went into effect September 20, 1992, as announced in the October 1991 **Federal Register** notice and as stated in the DMM.

Other Changes to the Proposed Regulations

In reviewing the proposed rule, the Postal Service has determined to make the following changes in addition to those arising from comments. The changes listed below are effective immediately to the extent they apply to the new preparation options. Changes to pre-existing preparation options may be used immediately, and conformance will be mandatory effective December 20, 1992, with issue 45 of the DMM.

1. Tray Labels

a. Contents Line for Barcoded Mailings

The term "ZIP+4 BARCODED" is changed to "LTRS BARCODED" on all tray labels for the new preparation methods in 562.1, 563, 564.1, 565, and 566. Furthermore, the word barcoded is not permitted to be abbreviated, except that the last or last two letters may be omitted for lack of space on the labels as specifically provided in the applicable tray sortation sections. The term "ZIP+4" is deleted in anticipation of delivery point barcoding being required on March 21, 1993. The term "LTRS" is added for consistency with other labeling regulations and to differentiate labels for letter-size pieces from labels for flat-size pieces. The word "barcoded" must be spelled out to make recognition of the contents of the trays easier for postal employees.

b. Physical Requirements

Physical requirements for preparation of tray labels are spelled out (as opposed to preferring the reader to DMM 441.32) in new DMM 561.27. Extraneous information may be placed above line 1 of mailer produced tray labels if that information is printed in 6-point or smaller type. These new requirements also recommend use of barcoded tray labels that can be ordered from the Postal Service, or prepared by the mailer in accordance with specifications contained in the DMM.

c. Labeling Overflow SCP Trays in New Tray-Based Options

Within tray-based mailings prepared under 562.1 and 564.1, overflow trays to the SCF level are labeled as SCF trays even if the contents of the tray are for only one 5-digit ZIP Code area, or are for only one 3-digit area. This will simplify preparation for mailers, aid postal personnel in verification, and make the regulations more consistent with other labeling requirements in the DMM.

d. Labeling AADC Trays

If AADC trays prepared under the new package-based sortation options (DMM 563, 565, and 566) contain only mail for a single 5-digit ZIP Code area, or only mail for a single 3-digit ZIP Code area, the tray will be labeled to the AADC in accordance with Exhibit 122.63t, and will contain the designation AADC on the contents line of the tray label. This differs from the regulations in DMM 567 (available only until March 21, 1993) that require SCF trays (the last level of tray) which contain mail for only one 5-digit ZIP Code area, or mail for only one 3-digit area, to be labeled as a 5-digit tray or a 3-digit tray as applicable. This change in will simplify preparation for mailers, aid postal personnel in verification, and make the regulations more consistent with other presort requirements in the DMM.

2. Sleeving of Trays

New provisions are added for all preparation options, based upon mailer requests, that allow the manager of the local processing center to authorize mailings to be submitted without sleeving the trays when all trays in the mailing are for delivery within the SCF of mailing.

3. Sortation

a. Military Mail

In response to inquiries by many mailers, provisions for traying military mail have been added to all preparation options.

b. Provisions for Less-Than-Full SCF Trays to the Origin SCF

Provisions for preparing a less-than-full SCF tray to the SCF of the post office where the mailing is entered are added to all preparation options. This will speed processing and delivery of this mail, as well as allow third-class mailers to meet the physical separation requirements for SCF destination entry rates in 624.718e.

4. DMM Chapter 6 Requirements for Destination Entry Discounts

The requirements in 624.71 and 624.72 for obtaining third-class SCF and BMC destination entry discounts are modified to include references to trays and to AADC and residual sortation levels for mailings prepared under DMM Chapter 5.

5. Residual Mail

The new presort options in 562.1, 563, 564.1, 565, and 566 which will be required on March 21, 1993, contain the following provisions which are different

from the pre-existing preparation requirements now contained in DMM 562.2, 564.2, and 567 (options available only until March 21, 1993):

a. Residual mail is labeled to the origin SCF on the top line and requires the word "WORKING" to appear on the contents line. This provides label information that mail processing personnel will recognize to ensure proper handling of this mail. (Previously this mail was labeled "Residual" on the top line and contained only the class and contents on the second line.)

b. The requirement to show the range of ZIP Codes on the top line of tray labels prepared under the ZIP Code sequencing option is omitted. Since these trays must now be labeled to the origin SCF, this information cannot be placed on this line of the tray label. This will also simplify preparation for mailers. The Postal Service believes that omission of this information will not impede its ability to verify the preparation of residual pieces.

c. The requirements to indicate the applicable weight/rate designations on the tray label of each residual tray for mailings prepared according to the physical separation option which requires that pieces must be trayed by ounce increment, or by over- and under-2-oz. designations, or by second-class in-county and outside-county rate designations are deleted. However, trays must be grouped by the type of separation at the time they are presented to the post office for verification. This will allow mailers to use tray labels prepared by the Postal Service on residual mail.

d. A requirement to tray pieces in third-class mailings eligible for BMC destination entry discounts separately from other pieces is added. This will enable mailers to meet the requirement for BMC destination entry in 624.722.

e. Mailers should note that under the new package-based requirements in 563, 565, and 566, option 3 residual preparation allows packages of residual mail to be placed in AADC trays in the qualifying portion of the mailing only when there is an AADC tray for that destination that contains qualifying packages. Residual mail left over after this process must be separately trayed in 3-digit numeric ZIP Code sequence, and labeled to the origin SCF. AADC trays containing only residual pieces are not permitted. This differs from the package-based requirements in DMM 567 (for use only until March 21, 1993) which permit all residual pieces to be placed in SCF trays (the last level of tray in the qualifying portion) even if this results in an SCF tray containing only one residual mailpiece. The Postal Service made this change to limit the number of less than full trays it must handle.

f. A sentence is added to clarify that First-Class mailers, after performing the basic sequencing or grouping requirements for residual mail in the applicable presort regulations, may perform additional sortations of the residual mail in accordance with any local authorization for acceptance times as set forth in Management Instruction DM–140–91–01, First-Class Mail Acceptance Policy.

5. Changes to Documentation

The new presort options in 562.1, 563, 564.1, 565, and 566, which will be required on March 21, 1993, contain the following provisions within documentation requirements that differ from the pre-existing documentation requirements now contained in DMM 562.2, 564.2, and 567 (options available only until March 21, 1993) or that differ from the proposed rule requirements:

a. Additional Format for DMM 563 ZIP Code Listings

A new documentation format option for package-based ZIP+4 rate mailings prepared under DMM 563 is added that allows the ZIP Code listing portion of the documentation to be divided into sections by type of package. This is an alternative to providing the ZIP Code information for packages in numeric sequential ZIP Code sequence regardless of package type.

b. Documentation for Option 3 Residual/Basic Mail Preparation for Package-Based Mailings

For mailings prepared under DMM 567 (pre-existing DMM 564), residual pieces may be listed within the 3-digit or 3/5 presort tier section of the documentation when option 3 residual/basic preparation is used until that option is eliminated on March 21, 1993. Because of the changes discussed above to option 3 residual/basic preparation requirements in the new package-based options (DMM 563, 565, and 566), the documentation for mailings prepared under those options must list residual mail in a separate residual section.

c. Third-Class Destination Entry Rates

A requirement is added to indicate, with asterisks or other characters, the ZIP Codes of third-class mail pieces qualifying for destination entry rates when not all pieces in the mailing qualify for the same destination entry rate. The summary portion of the documentation must also indicate, by separate line items, pieces qualifying for each destination entry discount at the various rate categories. This information is needed to verify that the information reported on the mailing statement accompanying the mailing is correct.

d. ZIP+4 Rate Column in ZIP+4 Barcoded Rate Mailings

Within the new ZIP+4 Barcoded rate preparation options (DMM 564.1, 565, and 566) specific language is added to the basic rate column requirements for the documentation to clarify that a rate column for pieces that are eligible for ZIP+4 presort rates is necessary only if the mailing actually contains such pieces and the mailer elects to claim those rates for such pieces.

e. Postage Charge Information Not Required in Summary for Second-Class

The requirements for the summary portion of the documentation under the new preparation options (DMM 562.1, 563, 564.1, 565, and 566) relax the requirements for second-class mailers by making it optional to show the rate of postage and total postage charges for each rate category.

f. Replacement of Mailing List or Cycle Provisions

The mailing list or cycle provisions contained in the proposed rule for First- and third-class mailings are replaced by new documentation provisions for meeting the 85% ZIP+4 coding or 85% ZIP+4 barcoding requirement based upon all the ZIP+4 rate or all the ZIP+4 Barcoded rate mailings in a "mailing job". The new "mailing job" provisions are located in 568.2 and apply to second-class mailings as well as third-class mailings. The new provisions are essentially the same as the mailing list or cycle provisions, except that definition of a "mailing job", and a requirement that all mailings in the job must be paid for and verified at a single post office, replace the former 7-day maximum mailing list or cycle definition. This change makes the requirements for letter-size pieces consistent with those for flat-size pieces and should not have an adverse affect on mailers.

g. Replacement of Listing Requirements With Abbreviated Documentation Requirements

The summary listing provisions that appeared in the proposed rule are deleted, and are replaced by new abbreviated documentation requirements that will apply to First-, second-, and third-class mailings. The proposed summary listing provisions were limited to First-Class mailings. Since publication of the proposed rule, the Postal Service promulgated

abbreviated documentation requirements for flats barcoded rate mailings prepared under DMM 570. In the interest of consistency, the Postal Service is extending the new abbreviated documentation procedures to mailings of letter-size pieces prepared under DMM 560, regardless of class. Authorization to use abbreviated documentation must be obtained from the postmaster where the mail is verified. These new procedures reduce the requirement for paper documentation by allowing mailers to submit ZIP Code listings with each mailing for only a single SCF area selected by the mailer. That SCF area must include pieces entered at all rate categories in the mailing and represent at least 3 trays of mail. (In some cases, ZIP Code listings for more than one SCF area may be required to provide documentation that represents all rate levels in the mailing.) In addition, a summary of the column titles and column totals for each section of the ZIP Code listing must be provided. Mailers must separate the trays represented by the documentation from the rest of the mailing when the mail is presented for verification. The abbreviated documentation will facilitate the Postal Service's verification of the documentation against the mailing, and reduce the need for administrative reviews. Mailers must be able, however, to provide complete documentation upon request of the Postal Service for any past mailing or for any upcoming mailing (with sufficient notice), or to provide listing for SCF areas specified by the postmaster for an upcoming mailing. Mailers using the new sections 562.1, 563, 564.1, 565, and 566 to prepare mailings may apply for use of abbreviated documentation under 568.1, and may not use the summary listing procedures currently contained in 360. First-Class mailers preparing mail under 360, or under 562.2, 564.2, or 567 who are currently authorized to use summary listing procedures may continue to use summary listing procedures only until March 21, 1993.

6. Revisions to DMM 143 and 144

New DMM sections 143.134 through 143.137 and 144.114 through 144.117 are revised in this final rule. These provisions concern requirements for payment by postage meter or precanceled stamps for nonidentical weight pieces. The revisions exclude automation-rate mailings prepared under Chapters 3, 5, and 6 from the documentation alternatives set forth in 143.136c, 143.136e, 144.116c and 144.116e. These revisions to 143 and 144 are effective immediately. Since the postage payment and documentation requirements for automation-rate mailings adequately document the proper amount of postage for mailings paid with precanceled stamps, the additional documentation required by the previously mentioned sections in DMM 143 and 144 is not necessary for automation-rate mailings.

7. Postage Payment Options

Section 580 of the final rule is revised to relocate the postage payment requirements for mailings of flat-size ZIP+4 Barcoded rate mailings prepared under 570. The revised section 580 moves postage payment requirements for automation rate First- and third-class mailings prepared under Chapter 5 (both letter-size mailings and flat-size mailings) from 382 and 661 to Chapter 5. In addition to the relocation, new section 580 will clarify for First-Class mailings (both letter-size mailings prepared under 560 and flat-size barcoded rate mailings prepared under 570) that:

(1) All First-Class Mail prepared with meters must have postage for any additional ounces affixed to each piece. (This includes mailings submitted under 581.4, Neither Lowest Rate Nor Correct Postage Affixed to Each Piece.) Appropriate documentation under 560 or 570 must be submitted in all instances where the first-ounce postage is not affixed to each piece at the exact rate for which it qualifies. This has been a long-standing policy of the Postal Service and does not change any current preparation options available to First-Class mailers.

(2) When postcard-rate and letter-rate pieces are contains in the same First-Class mailing, the postcard-rate pieces must be metered at the postcard rate and letter-rate pieces must be metered at the letter rate.

(3) A provision is added to clarify that the same denomination of precanceled stamp must be affixed to each piece in the mailing for First-Class mailings paid with nondenominated precanceled stamps or precanceled stamps of a denomination less than the lowest rate in the mailing, under 581.34. This makes the First-Class requirements consistent with the third-class postage payment requirements and allows the additional postage owed for such mailings to be determined by means of the documentation required under 560 or 570.

In view of the above considerations, the Postal Service adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

Domestic Mail Manual Issue 45, December 20, 1992, will include these changes. A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

List of Subjects in 39 CFR Part 111

Postal service.

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. Revise chapter 1 as follows:

CHAPTER 1—DOMESTIC MAIL SERVICES

* * * * *

122 DELIVERY ADDRESS

122.63 ZIP Code Assignment

[Revise the title of Exhibit 122.63t to read as follows:

"Automated Area Distribution Center (AADC) Labeling List for Use with Letter-Size First-, Second-, and Third-Class ZIP+4 and ZIP+4 Barcoded Rate Mailings."]

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143 PRECANCELED STAMPS

143.1 General

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143.134 Amount of Postage

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c. Underpayment. Subject to 382 (for First-Class Mail), 661 (for third-class mail), and 580 (for automation-based First- and third-class mailings) customers may affix a value of precanceled stamps to each mailpiece to represent either the lowest rate in the mailing or another amount less than the full and correct rate if the mailer provides documentation with the mailing as specified in 143.136 to describe the contents of the mailing and substantiate the additional postage due.

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143.136 Documentation

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b. Documentation Required by Other Regulations. [Revise the references "e.g.., 364, 382, 560, 628, 661" to read "e.g.., 364, 382, 560, 570, 580, 628, 661."]

* * * * *

c. Content of Documentation. (1) *Mailings at Automation-Based Rates.* All mailings at automation-based rates

must meet the documentation requirements in 360, 424.8, 560, 570, 581.6, 583.5, or 628.32.

(2) *Mailings at Nonautomation-Based Rates.* [Insert text of current 143.136c.]

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e. Alternatives. (1) *Mailings at Automation-Based Rates.* Documentation may be presented with the first mailing of each mailing job as provided in 568.2 or 575.2. Abbreviated documentation may be submitted as provided in 568.1 or 575.1. Until March 21, 1993, First-Class automation rate mailings prepared under 360 may be documented under the mailing list or cycle requirements of 364.24, 364.5, 365.4, 366.4, or the summary listing requirements of 364.223, 365.331c, 365.332 through 365.336, and 366.3. Until March 21, 1993, third-class automation rate mailings prepared under 628 may be documented under the mailing list or cycle provisions in 628.132c.

(2) *Mailings at Nonautomation-Based Rates.* [Insert current 143.136e.]

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144 Postage Meters and Meter Stamps

144.1 Postage Meters

144.11 Use of Meter Stamps

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144.114 Amount of Postage

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c. Underpayment. Subject to 382 (for First-Class Mail), 661 (for third-class mail), and 580 (for automation-based First- and third-class mailings) customers may affix a value of meter stamps to each mailpiece to represent either the lowest rate in the mailing or another amount less than the full and correct rate if the mailer provides documentation with the mailing as specified in 144.116 to describe the contents of the mailing and substantiate the additional postage due.

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144.116 Documentation

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b. Documentation Required by Other Regulations. [Revise the references "e.g., 364, 382, 560, 628, 661" to read "e.g., 364, 382, 560, 570, 580, 628, 661."]

* * * * *

c. Content of Documentation. (1) *Mailings at Automation-Based Rates.* All mailings at automation-based rates must meet the documentation requirements in 360, 424.8, 560, 570, 581.6, 583.5, or 628.32.

(2) *Mailings at Nonautomation-Based Rates.* [Insert text of current 144.116c.]

* * * * *

e. Alternatives. (1) *Mailings at Automation-Based Rates.* Documentation may be presented with the first mailing of each mailing job as provided in 568.2 or 575.2. Abbreviated documentation may be submitted as provided in 568.1 or 575.1. Until March 21, 1993, First-Class automation rate mailings prepared under 360 may be documented under the mailing list or cycle requirements of 364.24, 364.5, 365.4, 366.4, or the summary listing requirements of 364.223, 365.331c, 365.332 through 365.336, and 366.3. Until March 21, 1993, third-class automation rate mailings prepared under 628 may be documented under the mailing list or cycle provisions in 628.132c.

(2) *Mailings at Nonautomation-Based Rates.* [Insert current 143.136e.]

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147.4 Requests for Refunds for Payment of Excess Postage Submitted at Time of Mailing

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147.42 Value Added Refunds

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147.425 Preparation of Mailing. [In 147.425d, change the last sentence to read as follows: "(See 364.1, 364.2, 564.1, 564.2, 565, 566, 567, 628.35, 628.36, 647.22, or 647.23 for available options.)"

* * * * *

147.426 Mailing Statements. [Change the last sentence to read as follows: "(See 364.1, 364.2, 564.1, 564.2, 565, 566, 567, 628.35, 628.36, 647.22, or 647.23 for available options.)"

147.427 Documentation for First-Class Mailings. [Change the last sentence of 147.427b to read as follows: "The presort documentation required by 364.21, 364.4, 564.14, 564.24, 565.5, 566.6, or 567.6 as applicable, must also be provided."

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147.43 Refunds for ZIP+4 Barcoded Rate Combined Mailings. [In all subsections change the reference "382.6" to "581.5;" the reference "382.7" to "581.6 and 583.5;" the reference "661.4" to "583.4."]

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3. In chapter 3 of the Domestic Mail Manual make the following revisions:

CHAPTER 3—FIRST-CLASS MAIL

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310 Rates and Fees

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312 NONPRESORTED BULK RATES

312.1 Nonpresorted ZIP+4 Rate

312.11 Card Rate

312.111 Rate Application. The nonpresorted ZIP+4 rates in 312.112 apply to cards meeting the requirements in 311.11 and 322 that bear a ZIP+4 code and are prepared in mailings meeting the requirements of 513 and 514.

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312.12 Letter-Size Mail Other than Cards

312.121 Rate Application. The nonpresorted ZIP+4 rates in 312.122 apply to letter-size pieces (other than cards eligible for the card rates) bearing ZIP+4 codes in mailings that meet the requirements of 513 and 514.

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312.2 Nonpresorted ZIP+4 Barcoded Rate

312.21 Cards

312.211 Rate Application. The nonpresorted ZIP+4 Barcoded rate in 312.212 applies to cards meeting the requirements of 311.11, 322, that bear a ZIP+4 barcode or delivery point barcode in mailings that meet the requirements of 513 and 515.

* * * * *

312.23 Flat-Size Mail

312.231 Rate Application. The nonpresorted flat-size ZIP+4 Barcoded rates in 312.232 apply to automation-compatible flat-size pieces bearing ZIP+4 barcodes or delivery point barcodes in mailings that meet the requirements of 513 and 516.

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313 Presorted Bulk First-Class Rates

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313.5 3/5-Digit ZIP+4 Barcoded Rate for Flat-Size Mail

313.51 Rate Application. The 3/5-digit flat-size ZIP+4 Barcoded rates in 313.52 apply to automation-compatible flat-size pieces bearing ZIP+4 barcodes or delivery point barcodes in mailings that meet the requirements of 513 and 516.

* * * * *

313.6 ZIP+4 Presort Rates (Letter-Size Mail)

313.61 Rate Application. The ZIP+4 Presort rates in 313.62 apply to letter-size pieces, including cards, that bear ZIP+4 codes in mailings that meet the requirements of 513 and 514.

* * * * *

313.7 3–Digit Letter-Size ZIP+4 Barcoded Rates

313.71 Rate Application. The 3-digit letter-size ZIP+4 Barcoded rates in 313.72 apply to letter-size pieces, including cards, that bear a ZIP+4 barcode or delivery point barcode in mailings that meet the requirements of 513 and 515.

* * * * *

313.8 5-Digit Letter-Size ZIP+4 Barcoded Rates

313.81 Rate Application. The 5-digit letter-size ZIP+4 Barcoded rates in 313.72 apply to letter-size pieces, including cards, that bear a ZIP+4 barcode or delivery point barcode in mailings that meet the requirements of 513 and 515.

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324 ZIP+4 PRESORT FIRST-CLASS MAIL (LETTER-SIZE PIECES ONLY)

[*Replace existing 324.1 through 324.8 with the following:*]

324.1 General. ZIP+4 Presort mailings must consist of letter-size pieces, including cards, and must meet the requirements in 513 and 514. The rate eligibility criteria for mailings presorted under 562.1, 562.2 (presort option available only through March 20, 1993) or 563 are in 562.11, 562.22, and 563.1. The rate eligibility criteria for mailings presorted under 365 or 366 (presort options available only through March 20, 1993) are in 324.2 through 324.4.

324.2 Rate Eligibility for National Mailings Prepared Under 365

324.21 Availability. This option is available only through March 20, 1993.

324.22 Qualifying Portion. [Insert current 324.121a. Change the reference "324.2 through 324.8" to "513 and 514".]

324.23 Residual Portion. [Insert current 324.121b. Change the reference "324.2 through 324.8" to "513 and 514".]

324.3 Automated Site Mailings Prepared under 366

324.31 Availability. This option is available only through March 20, 1993.

324.32 Qualifying Portion. [Insert current 324.122a. Change the reference "324.2 through 324.8" to "513 and 514".]

324.33 Residual Portion. [Insert current 324.122b. Change the reference "324.2 through 324.8" to "513 and 514" ".]

324.4 Eligibility of Pieces Prepared With Barcodes. See 514.12 through 514.14.

325 ZIP+4 BARCODED RATE

[*Replace current 325.1 through 325.9 with the following:*]

325.1 General

325.11 Letter-Size Mailings. Presorted letter-size ZIP+4 Barcoded rate mailings must meet the requirements in 513 and 515. The rate eligibility criteria for letter-size mailings presorted under one of the options in Chapter 5 (564.1, 564.2, 565, 566, and 567) are in 564.111, 564.221, 565.21, 566.21, and 567.21. The presort options in 564.2 and 567 are available only through March 20, 1993. The rate eligibility criteria for letter-size mailings presorted under Chapter 3 (364.1 and 364.2—presort options available only through March 20, 1993) are in 325.2 and 325.3.

325.12 Flat-Size Mailings. Presorted flat-size ZIP+4 Barcoded rate mailings must meet the requirements in 513 and 516. The rate eligibility criteria for flat-size mailings presorted under 572 and 573 are in 571.11.

325.2 Letter-Size National Mailings Prepared Under 364.1 and 364.2 (Available only Through March 20, 1993)

325.21 Definition of National Mailing. A national mailing may contain pieces for addresses served by both automated and nonautomated postal facilities (i.e., for any domestic ZIP Code).

325.22 5-Digit Sortation. [Insert former 325.121, renumber subsections accordingly.]

325.23 3-Digit Sortation. [Insert former 325.122, renumber subsections accordingly.]

325.24 Residual Sortation. [Insert former 325.123, renumber subsections accordingly.]

325.3 Letter-Size Automated Site Mailings Prepared Under 364.3 and 364.4 (Preparation Option Available Only Through March 20, 1993)

325.31 Definition of Automated Site Mailing. [Insert text of former 325.111b.]

325.32 3-Digit Sortation. [Insert former 325.131.]

325.33 Residual Sortation. [Insert former 325.132.]

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327 NONPRESORTED ZIP+4 MAIL (LETTER-SIZE PIECES ONLY)

[*Delete current 327.1 through 327.5 and insert the following:*]

Nonpresorted ZIP+4 mailings must meet the requirements in 513 and 514. The rate eligibility criteria for mailings prepared under 569 are in 569.11. The rate eligibility criteria for mailings prepared under 368.1 (a preparation option available only through March 20, 1993) are the same as those in 569.11.

328 NONPRESORTED ZIP+4 BARCODED MAIL

[*Delete current 328.1 through 328.5 and insert the following:*]

328.1 Card-Rate Mailings. Nonpresorted card-rate ZIP+4 barcoded mailings must meet the requirements in 513 and 515, including preparation under 569.21. The rate criteria for mailings prepared under 569.2 are in 569.21. The rate criteria for mailings prepared under 368.1 (a preparation option available only through March 20, 1993) are the same as those in 569.21.

328.2 Flat-Size Mailings. Nonpresorted flat-size ZIP+4 barcoded rate mailings must meet the requirements in 513 and 516, including preparation under 577. The rate criteria for mailings prepared under 577 are in 577.1.

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360 Preparation Requirements

361 ADDRESSING

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361.5 ZIP+4 First-Class Mail. [Add the following to existing 361.5: "See 514.3 and 515.4 for further requirements."]

361.6 ZIP+4 Barcoded or Delivery Point Barcoded First-Class Mail

361.61 Letter-Size Mailings (Including Cards). [Add the following to existing 361.61: "See 515.3 and 515.4 for further requirements."

361.62 Flat-Size Mailings. The address on each piece in a flat-size ZIP+4 Barcoded rate mailing must contain the correct numeric 5-digit ZIP Code, the correct numeric ZIP+4 code, or the correct numeric equivalent to the delivery point barcode (see 517.3). In addition, at least 85% of the pieces must also contain a correct ZIP+4 barcode or delivery point barcode, and the remaining pieces must bear the correct 5-digit barcode. See 516.3 and 516.4 for further requirements.

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362 MARKING REQUIREMENTS

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362.4 Nonpresorted ZIP+4 Mail. See 514.531b.

362.5 ZIP+4 Presort First-Class Mail. See 514.531a.

362.6 ZIP+4 Barcoded First-Class Mail. See 515.531a for letter-size mailings (including cards). See 516.531a for flat-size mailings.

362.7 Nonpresorted ZIP+4 Barcoded Mail. See 515.531b for cards and 516.531b for flat-size mailings.

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364 LETTER-SIZE ZIP+4 BARCODED FIRST-CLASS MAIL

Note: The presort and documentation options in 364 may be used for mailings presented through March 20, 1993. Effective March 21, 1993, mailings must be presorted under either 564.1, 565, or 566.

364.1 National Mailings—Presort Requirements

364.11 General. ZIP+4 Barcoded rate national mailings (as defined in 325.21), claimed at the rates described in 325.22 through 325.24, must be packaged and trayed under 364.11 through 364.16, as applicable. Mailers must prepare mailings as required by 364.12 and 364.13 only if the 5-digit ZIP+4 Barcoded rate is claimed for the corresponding mail. If that rate is not being claimed, sortation can begin with the requirements of 364.13.

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364.13 5-Digit ZIP+4 Barcoded Rate Traying [Change the reference "325" in 364.131a to "515."]

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364.15 3-Digit ZIP+4 Barcoded Rate Traying [Change the reference "325" in 364.151a to "515."]

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364.16 Preparation for Residual Portion. [Change the reference "325.123" to "325.24."]

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364.3 Automated Site Mailings—Preparation [In 364.312a and 364.312b, change the references "325" to "515" and change the reference "325.123" to "325.24."]

364.4 Automated Site Mailings—Documentation

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364.411 When Documentation Required. [Change the reference "325.3" to "515.31."]

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364.431 Qualifying Trays. [In 364.431a, change the reference "325.122b" to "325.232", and the reference 325.122c" to "325.233".]

364.432 Residual Tray. [In 364.432a and 364.432b, change the reference "325.122a through 325.122c" to "325.231 through 325.233".]

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364.6 Mailing Statements. [Change the reference 382.4" to "382.5". Change the reference "382.31d or 382.33b" to "382.315b or 382.332b."]

365 ZIP+4 PRESORT FIRST-CLASS MAIL—NATIONAL MAILINGS

Note: The presort and documentation options in 365 may be used for mailings presented through March 20, 1993. Effective March 21, 1993, mailings must be presorted and documented under either 562 or 563.

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365.12 Rate Eligibility. See 324.2.

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365.3 Postage Payment

365.31 General. [Change the reference "382.4" to "382.5".]

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365.5 Residual Pieces. [Change the reference "324.3 through 324.7" to "514."]

366 COMBINED PRESORT MAILINGS DESTINATING AT AUTOMATED SITES

Note: The presort and documentation options in 366 may be used for mailings presented through March 20, 1993. Effective March 21, 1993, mailings must be presorted and documented under either 562 or 563.

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366.12 Rate Eligibility. See 324.3.

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366.3 Documentation & Postage Payment. [Change the reference "382.4" to "382.".]

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368 PREPARATION OF NONPRESORTED BULK RATE FIRST-CLASS MAIL

Note: The preparation options in 368 may be used for mailings presented through March 20, 1993. Effective March 21, 1993, mailings must be prepared under 569.1 or 569.2.

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368.122 Traying Requirements—Physical Separation Option. [Change the reference "327.2" to "514.3."]

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368.222 Traying—Physical Separation Option. [Change the reference "328.2" to "515.3"]

380 Payment of Postage

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382 CARRIER ROUTE FIRST-CLASS, PRESORTED FIRST-CLASS, NONPRESORTED ZIP+4, NONPRESORTED ZIP+4 BARCODED, ZIP+4 PRESORT, 5-DIGIT ZIP+4 BARCODED, AND 3-DIGIT ZIP+4 BARCODED RATES

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382.2 Exact Postage on Each Piece

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382.23 ZIP+4 Barcoded Presort Rate Mailings

382.231 Letter-Size National Mailings Prepared Under 364.1 (Presort Option Available Only Through March 20, 1993) [Insert current text of 382.23.]

382.232 Letter-Size and Flat-Size Mailings Prepared Under Chapter 5. See 581.1 through 581.4.

382.233 Letter-Size Automated Site Mailings Prepared Under 364.3 (Presort Option Available Only Through March 20, 1993) [Insert current text of 382.233.]

382.24 Nonpresorted Letter-Size ZIP+4 Rates. See 581.1 through 581.4.

382.25 Nonpresorted Card-Size and Flat-Size ZIP+4 Barcoded Rates. See 581.1 through 581.4.

382.3 Postage at Lowest Rate in Mailing Affixed to All Pieces

382.31 Identical Pieces

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382.313 Letter-Size ZIP+4 Presort Mailings Prepared Under 365 or 366 (Presort Options Available Only Through March 20, 1993). [Insert text of current 382.313.]

382.314 Letter-Size ZIP+4 Presort Mailings Prepared Under Chapter 5. See 581.1 through 581.4.

382.315 ZIP+4 Barcoded Presort Rate Mailings

a. Letter-Size National Mailings Prepared Under 364.1 (Presort Option Available Only Through March 20, 1993). [Insert text of current 382.314a.]

b. Letter-Size Automated Site Mailings Prepared Under 364.3 (Presort Option Available Only Through March 20, 1993). [Insert text of current 382.314c.]

c. Letter-Size and Flat-Size Mailings Prepared Under Chapter 5. See 581.1 through 581.4.

382.316 Nonpresorted Letter-Size ZIP+4 Mailings. See 581.1 through 581.4.

382.317 Nonpresorted Card-Size and Flat-Size ZIP+4 Barcoded Mailings. See 581.1 through 581.4.

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382.33 Nonidentical Pieces at All ZIP+4 and ZIP+4 Barcoded Rates

382.331 Letter-Size ZIP+4 Presort Mailings

a. Letter-Size Mailings Prepared Under 365 or 366 (Presort Options Available Only Through March 20, 1993). [Insert text of current 382.331. At the end of the first sentence, change the phrase "provided the presort requirements in 365.33, 366.3, 562.162, or 562.252 are met" to "provided the presort requirements in 365.33 or 366.3 are met."]

b. Letter-Size Mailings Prepared Under Chapter 5. See 581.1 through 581.4.

382.332 ZIP+4 Barcoded Presort Mailings

a. Letter-Size National Mailings Prepared Under 364.1 (Presort Option Available Only Through March 20, 1993). [Insert text of current 382.332a.]

b. Letter-Size Automated Site Mailings Prepared Under 364.3 (Presort Option Available Only Through March 20, 1993). [Insert current text of 382.332c.]

c. Letter-Size and Flat-Size Mailings Prepared Under Chapter 5. See 581.1 through 581.4.

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382.333 Nonpresorted Letter-Size ZIP+4 Mailings. See 581.1 through 581.4.

382.334 Nonpresorted Card-Size and Flat-Size ZIP+4 Barcoded Mailings. See 581.1 through 581.4.

382.4 Neither Lowest Rate Nor Correct Postage Affixed to Each Piece

382.41 ZIP+4 and ZIP+4 Barcoded Rate Mailings. See 581.4.

382.42 Nonautomation-Based Rate Mailings. [Insert current 382.41 through 382.43, renumbered as 382.421 through 382.423. Renumber internal references accordingly.]

382.6 ZIP+4 Barcoded Rate Combined Mailings With Different Postage Payment Methods. See 581.5.

382.7 Combined Mailing Documentation Submission Requirements. See 581.6.

4. Revise Chapter 4 as follows.

CHAPTER 4—SECOND-CLASS MAIL

* * * * *

410 Rates and Fees

411 RATES

411.11 Rate Elements

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411.113 Piece Rates. [Insert current 411.113. Change the reference "(see 440)" to "(see 440, 560 or 570)."]

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411.12 Eligibility

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411.125 ZIP+4 Rates. ZIP+4 rates are available only for letter-size mailpieces meeting the physical requirements of 521. ZIP+4 rates include a level A/G, B3/H3/J3, and B5/H5/J5 discount applied to each addressed piece that bears a correct ZIP+4 code and meets the requirements of 513 and 514. A ZIP+4 rate is not available for pieces claimed at level C, I, and K rates.

411.126 ZIP+4 Barcoded Rates. ZIP+4 Barcoded rates include a level A/G, B3/H3/J3, and B5/H5/J5 discount applied to each addressed piece that bears a ZIP+4 barcode or delivery point barcode and meets the requirements of 513 and 515 for letter-size mailings, or the requirements of 513 and 561 for flat-size mailings. A ZIP+4 Barcoded rate (discount) is not available for pieces claimed at level C, I, and K rates.

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411.13 Computation of Postage

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411.132 Piece Rates

a. Outside-the-County. [Change the reference from "(see 411.146 and 440)" to "(see 411.146 and either 440, 560, or 570)."]

b. In-County. [Change the reference from "(see 411.146 and 440)" to "(see 411.146 and either 440, 560, or 570, as applicable)."]

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411.14 Presort Level Rates

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411.143 3- and 5-Digit Sortation (Level B Rates)

a. Nonautomation Rates and Automated Rate Mailings Prepared under 440. [Insert current 411.143a through c renumbered as 411.143a (1) through (3).]

b. Automation Rate Mailing Prepared Under Chapter 5

(1) *Tray-Based Mailings of Letter-Size Pieces (562 or 564)*

(a) Level B5 or H5 rates apply to pieces in 5-digit trays.

(b) Level B3 or H3 rates apply to pieces in optional city and unique 3-digit trays.

(2) *Package-Based Mailings of Letter-Size Pieces (563, 565, 566, or 567)*

(a) Level B5 or H5 rates apply to pieces in 5-digit packages of 10 or more pieces placed in 5-digit, optional city, 3-digit, SCF, or AADC trays.

(b) Level B3 or H3 rates apply to pieces in optional city or unique 3-digit packages of 50 or more pieces placed in optional city, 3-digit, SCF, or AADC trays.

(3) *Mailings of ZIP+4 Barcoded Rate Flat-Size Pieces*

(a) Level B5 or H5 rates apply to pieces in 5-digit packages of 6 or more pieces placed in 5-digit, optional city, 3-digit, SCF, or SDC sacks.

(b) Level B3 or H3 rates apply to pieces in optional city or unique 3-digit packages of 6 or more pieces placed in optional city, 3-digit, SCF, or SDC sacks.

411.145 In-County Level J Rates

a. Nonautomation Rates and Automation Rate Mailings Prepared Under 440. [Insert current 411.145a through c renumbered as 411.145a (1) through (3).]

b. Automation Rate Mailings Prepared Under Chapter 5

(1) *Tray-Based Mailings of Letter-Size Pieces (562 or 564)*

(a) Level J5 rates apply to in-county pieces (411.32) in 5-digit trays.

(b) Level J3 rates apply to in-county pieces (411.32) in optional city and unique 3-digit trays.

(c) Level J1 rates apply to in-county pieces (411.32) not eligible for the J5 or J3 rates.

(2) *Package-Based Mailings of Letter-Size Pieces (563, 565, 566, or 567)*

(a) Level J5 rates apply to in-county pieces (411.32) in 5-digit packages of 10 or more pieces placed in 5-digit, optional city, 3-digit, or SCF trays.

(b) Level J3 rates apply to in-county pieces (411.32) in optional city or unique 3-digit packages of 50 or more pieces placed in optional city, 3-digit, or SCF trays.

(c) Level J1 rates apply to in-county pieces (411.32) not eligible for the J5 or J3 rates.

(3) *Mailings of ZIP+4 Barcoded Rate Flat-Size Pieces*

(a) Level J5 rates apply to in-county pieces (411.32) in 5-digit packages of 6 or more pieces placed in 5-digit, optional city, 3-digit, SCF, or SDC sacks.

(b) Level J3 rates apply to in-county pieces (411.32) in optional city or unique 3-digit packages of 6 or more pieces placed in optional city, 3-digit, SCF, or SDC sacks.

(c) Level J1 rates apply to in-county pieces (411.32) not eligible for the J5 or J3 rates.

411.2 Regular Rates

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411.23 Piece Rates. [Insert current 411.23. Revise the first sentence to read as follows. "Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and either 440, 560 or 570."]

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411.3 Preferred Rates

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411.32 In-County Rates

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411.326 Piece Rates. [Insert current 411.326. Revise the first sentence to read as follows. "Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and either 440, 560 or 570, as applicable."]

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411.33 Special Nonprofit Rates

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411.333 Piece Rates. [Insert current 411.333. Revise the first sentence to read as follows. "Each piece rate requires specific preparation as described in 411.113, 411,114, 411.12, and either 440, 560, or 570, as applicable."]

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411.34 Classroom Rates

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411.343 Piece Rates. [Insert current 411.343. Revise the first sentence to read as follows: "Each piece rate requires specific preparation as described in 411.113, 411.114, 411.12, and either 440, 560, or 570, as applicable."]

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411.35 Science of Agriculture Rates

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411.353 Piece Rates. [Insert current 411.353. Revise the first sentence to read as follows. "Each piece requires specific preparation as described in 411.113, 411.114, 411.12, and either 440, 560 or 570, as applicable."]

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424 ADDITIONAL ELIGIBILITY REQUIREMENTS FOR SPECIFIC RATES

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424.5 ZIP+4 Rates (Letter-Size Pieces Only)

424.51 Rate Eligibility

424.511 General. ZIP+4 rate mailings must meet the preparation requirements specified in 513 and 514, including preparation under 562 or 563. The rate eligibility criteria for mailings prepared under 562.1, 562.2 (presort option available only through March 20, 1993), or 563 are contained in 562.112, 562.222 and 563.12. The rate eligibility criteria for mailings prepared under 447 (presort options available only through March 20, 1993) are contained in the remainder of this section.

424.512 National Mailings Presorted Under 447 (Available Only Through March 20, 1993). [Insert current 424.543a. Change the reference "424.532" to "447".

424.513 Automated Site Mailings Presorted Under 447 (Available Only Through March 20, 1993).

a. General. Subject to the requirements of 447.22, publishers may prepare mailings without making 5-digit packages or sacks when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m. Pieces destinating in other ZIP Code areas must be prepared as a separate mailing.

b. Rates. Pieces in unique 3-digit sacks (see Exhibit 122.63c for the list of unique 3-digit ZIP Codes) are eligible for level B3/H3/J3 ZIP+4 rates. Pieces in all other sacks must be claimed at the level A/G/J1 ZIP+4 rates.

424.514 Eligibility of Pieces Prepared With Barcodes. See 514.12 through 514.14.

424.6 ZIP+4 Barcoded Rates

424.61 Mailings of Letter-Size Pieces

424.611 Rate Eligibility

a. General. Letter-size ZIP+4 Barcoded rate mailings must meet the requirements specified in 513 and 515, including preparation under 564.1, 564.2, 565, 566, or 567. The rate eligibility criteria for mailings prepared under 564.1, 564.2 (preparation option available only through March 20, 1993), 565, 566 or 567 (preparation option available only through March 20, 1993) are contained in 564.112, 564.222, 565.22, 566.22 and 567.22. The rate eligibility criteria for mailings prepared under 447 (preparation options available only through March 20, 1993) are contained in the remainder of this section.

b. National Mailings Presorted Under 447 (Available Only Through March 20, 1993). [Insert current 424.643. Change the reference "424.632" to "447".]

c. Automated Site Mailings Presorted Under 447 (Available Only Through March 20, 1993).

(1) *General.* Subject to the requirements of 447.22 or 447.32, publishers may prepare mailings without making 5-digit packages or sacks (or trays under 447.32) when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m, and pieces destinating in other ZIP Code areas are prepared as a separate mailing.

(2) *Rates.* Pieces in unique 3-digit sacks or unique 3-digit trays (see Exhibit 122.63c for the list of unique 3-digit ZIP Codes) are eligible for level B3/H3/J3 letter-size ZIP+4 Barcoded rates. Pieces in all other sacks or trays must be claimed at the level A/G/J1 letter-size ZIP+4 Barcoded rates.

424.62 Mailings of Flat-Size Pieces

424.621 Rate Eligibility for Mailings of Flat-Size Pieces

a. General. Flat-size ZIP+4 Barcoded rate mailings must meet the requirements of Chapter 5 as specified in 513 and 516, including preparation under 570. The rate eligibility criteria for mailings prepared under 570 are contained in 571.12.

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424.8 Additional Requirements for Presort Rates

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424.82 5-Digit and Unique 3-Digit Presort (Level B and H) Rates

424.821 Mailings Prepared Under 440. [Insert text of current 424.82. Add the following to the end of the note: "For ZIP+4 and ZIP+4 Barcoded rate mailings prepared under 447, there must be at least four packages in each 5-digit, optional city, or unique 3-digit sack."]

424.822 Letter-Size Tray-Based ZIP+4 Rate or ZIP+4 Barcoded Rate Mailings Prepared Under 562 or 564. To qualify for the level B or H per-piece rate, a piece must be in one of the following trays:

a. Full or overflow 5-digit tray.

b. Full or overflow optional city tray.

c. Full or overflow unique 3-digit tray.

424.823 Letter-Size Package-Based ZIP+4 Rate or ZIP+4 Barcoded Rate Mailings Prepared Under 563, 565, 566, or 567. To qualify for the level B or H per-piece rate, a piece must be in one of the following packages:

a. A 5-digit package of 10 or more pieces, that is placed in either a 5-digit, optional city, 3-digit, SCF, or AADC tray.

b. An optional city package of 50 or more pieces, that is placed in either an optional city, 3-digit, SCF, or AADC tray.

c. A unique 3-digit package of 50 or more pieces, that is placed in either an optional city, 3-digit, SCF or AADC tray.

424.824 Flat-Size ZIP+4 Barcoded Rate Mailing. To qualify for the level B or H ZIP+4 Barcoded per-piece rate, a piece must be:

a. In a 5-digit package of six or more pieces, that is placed in either a 5-digit, optional city, 3-digit, SCF, or SDC sack.

b. In an optional city package of six or more pieces, that is placed in either an optional city, 3-digit, SCF or SDC sack.

c. In a unique 3-digit package of six or more pieces, that is placed in either a unique 3-digit, SCF, or SDC sack.

440 Presorting

441 PREPARATION FOR THE BASIC RATES (LEVELS A, G, AND J)

441.1 General. All addressed pieces in a second-class mailing must be presorted. Except for mailings prepared to claim ZIP+4 rate or ZIP+4 Barcoded piece rate discounts, the presort must at a minimum meet the requirements in 441.2 and 441.3. Publishers may perform additional preparation to meet the requirements for other presort rates or discounts. Mailings of letter-size pieces prepared for ZIP+4 rate or ZIP+4 Barcoded rate discounts must be presorted according to 560, except that through March 20, 1993, such mailings may be presorted under 447. Mailings of

flat-size pieces must be presorted under 570.

* * * *

447 SPECIAL PREPARATION FOR LETTER-SIZE ZIP+4 RATE AND ZIP+4 BARCODED RATE MAILINGS

447.1 General

447.11 Presort Options Available Through March 20, 1993. Through March 20, 1993, letter-size publications meeting the physical requirements of 521 and mailed at either the letter-size ZIP+4 rate or the letter-size ZIP+4 Barcoded rates may be presorted, packaged, and sacked as prescribed by 441 and 443, with the modifications described in 447.21; or may be packaged and sacked according to the optional automated site sortation in 447.22. Through March 20, 1993, letter-size mailings at ZIP+4 rates or ZIP+4 Barcoded rates may also be trayed under 447.3.

Through March 20, 1993, mailers may also prepare letter-size ZIP+4 and ZIP+4 Barcoded rate mailings under 562.1, 562.2, 563, 564.1, 564.2, 565, 566, or 567.

447.12 Presort Options Effective March 21, 1993. Beginning March 21, 1993, letter-size mail must be presorted under 562.1 or 563 to qualify for ZIP+4 rates, and under 564.2, 565, or 566 to qualify for ZIP+4 Barcoded rates.

447.2 Sacked Mailings of Letter-Size Pieces (Available Only Through March 20, 1993)

447.21 Basic Preparation

447.211 Packaging. [Insert text of current 447.21.]

447.212 Sacking. [Insert text of 447.22.]

447.22 Optional Sortation to Automated Sites

447.221 General. Publishers may prepare mailings without preparing 5-digit packages or sacks when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122:63m, and pieces destinating in other ZIP Code areas are prepared as a separate mailing.

447.222 Packaging. Pieces must be presorted in 3-digit, SCF, AADC and Mixed AADC packages according to Exhibits 122.63m, n, and o. Each package must contain a minimum of six addressed pieces, except for the "last" Mixed AADC package.

447.223 Sacking. The packages prepared under 447.212 must be presorted to 3-digit, SCF, AADC and Mixed AADC sacks according to Exhibits 122.63m, n, and o. Each sack must contain a minimum of four packages, except for the "last" Mixed AADC sack.

447.224 Rates. Pieces in unique 3-digit sacks (see Exhibit 122.63c for the list of unique 3-digit ZIP Codes) are eligible for level B3/H3/J3 rates. Pieces in all other sacks must be claimed at the level A/G/J1 rates. See 424.513 and 424.611c.

447.3 Trayed Mailings of Letter-Size Pieces (Available Only Through March 20, 1993)

447.31 Basic Sortation

447.311 General. Mailings may be packaged and trayed rather than packaged and sacked as provided in 447.312 through 447.316.

447.312 Packaging. Pieces must be prepared in packages as specified in 441.21 through 441.24 (if claimed at level A, G, and J rates) or 443.21 through 443.25 (if claimed at level B and H rates) except that each package in a mailing must contain a minimum of six addressed pieces. The "last" mixed states package may contain fewer than six pieces. Exceptions to packaging are provided in 447.312a-c.

[Insert current 447.322 through 447.324 renumbered as 447.312a through 447.312c. Delete current 447.325.

447.313 Tray Sortation. Insert current 447.33. Change the reference "447.325" to "447.32". Change the reference "447.34" to 447.314.

[Insert current 447.34 through 447.36 renumbered as 447.314 through 447.316.]

447.32 Optional Tray Sortation to Automated Sites

447.321 General. Publishers may prepare mailings without making 5-digit packages or trays when all pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m. Pieces destinating in other ZIP Code areas must be prepared as a separate mailing.

447.322 Packaging. Pieces must be presorted in 3-digit, SCF, AADC and Mixed AADC packages according to Exhibits 122.63m-o. Each package must contain a minimum of 6 addressed pieces, except for the "last" Mixed AADC package. The exceptions to packaging in 447.312 b and c apply.

447.323 Traying. The packages prepared under 447.322 must be presorted to 3-digit, SCF, AADC, and Mixed AADC trays according to Exhibits 122.63m-o. A tray must be prepared to a required sortation whenever the mail for that destination fills 3/4 of a tray. Trays that are less than 3/4 full must not be prepared except for the final Mixed AADC tray in the mailing, or except for overflow trays as provided in 447.314. The general traying provisions in 447.314 through 447.316 apply.

447.324 Rates. Pieces in unique 3-digit trays (see Exhibit 122.63c for the list of unique 3-digit ZIP Codes) are eligible for level B3/H3/J3 rates. Pieces in all other trays must be claimed at the level A/G/J1 rates. See 424.513 and 424.611c.

5. Revise chapter 5 as follows.

CHAPTER 5—MAILINGS AT AUTOMATION-BASED RATES

510 Overall Requirements

511 Content

This chapter contains all the requirements for letter-size mailings at First-, second-, and third-class ZIP+4 rates, and all the requirements for both letter-size and flat-size mailings at First, second-, and third-class ZIP+4 Barcoded rates. 513 sets forth general requirements that must be met for each mailing. 514 sets forth the requirements that must be met for ZIP+4 rate mailings. 515 sets forth the requirements that must be met for letter-size ZIP+4 Barcoded rate mailings. 516 sets forth the requirements that must be met for flat-size ZIP+4 Barcoded rate mailings.

Exception: Through March 20, 1993, letter-size automation rate mailings may be presorted and documented in accordance with options available in 364, 365, 366, 368, 447, 641.1, or 647.3, instead of in accordance with one of the options in 560.

512 POSTAGE RATES

The specific rates of postage for the rates referred to in this Chapter are found in sections 310 (First-Class), 410 (second-class), and 610 (third-class).

513 GENERAL REQUIREMENTS FOR ALL ZIP+4 RATE AND ZIP+4 BARCODED RATE MAILINGS

513.1 Classes of Mail. Automation-rate mailings must meet the classification requirements for their specific class as set forth in Chapters 3, 4, and 6, as well as the requirements of this Chapter. Mixing pieces of different mail classes in the same mailing is prohibited.

513.2 Mail Processing Categories. Mixing letter-size pieces (128.2) and automation-compatible flat-size pieces (128.32) in the same mailing is prohibited.

Note: There is an overlap in the sizes for letters in 128.2 and the sizes for automation-compatible flats in 128.32 and 522. A flat-size ZIP+4 Barcoded rate mailing could therefore contain pieces that technically meet the definition of letter-size pieces. For mailpieces that, based upon size, could meet either the definition of a letter-size piece, or the

definition of an automation-compatible flat-size piece, mailers must choose whether to prepare them under the requirements for an automation-compatible flat-size ZIP+4 Barcoded rate mailing (see 516), or under the requirements for a letter-size ZIP+4 Barcoded rate mailing (see 515). It is not permissible to claim both the letter-size ZIP+4 Barcoded rates and the flat-size ZIP+4 Barcoded rates in a single mailing.

513.3 Carrier Route Mailings. ZIP+4 rate mail and ZIP+4 Barcoded rate mail (either letter-size or automation compatible flat-size) must not be presented as part of a mailing that includes carrier route rate mail (including walk-sequence mailings). Separate flat-size ZIP+4 Barcoded rate mailings and separate flat-size carrier route presort rate mailings that are part of the same mailing job as defined in 575.2, may however, be copalletized under the provisions of 576.4.

513.4 Annual Presort/Bulk Mailing Fees

513.41 First-Class Mailings. Persons or organizations mailing at First-Class ZIP+4 Presort or ZIP+4 Barcoded Rates (presorted) must pay the annual presort fee as described in 341. The presort fee does not apply to persons or organizations who enter only nonpresorted rate mailings (nonpresorted ZIP+4 rate mailings, nonpresorted letter-size ZIP+4 Barcoded rate mailings, or nonpresorted flat-size ZIP+4 Barcoded rate mailings).

513.42 Second-Class Mailings. There is no presort fee for second-class mailings.

513.43 Third-Class Mailings. Persons or organizations entering third-class ZIP+4 rate or ZIP+4 Barcoded rate mailings must pay the annual bulk mailing fee as described in 623.1.

513.5 Mailing. ZIP+4 and ZIP+4 Barcoded rate mailings must be presented for acceptance by the Postal Service as provided for the specific class of mail by 370, 450, and 650.

514 REQUIREMENTS FOR ZIP+4 RATE MAILINGS (LETTER-SIZE PIECES ONLY)

514.1 Rate Eligibility

514.11 General. Only mailpieces containing a correct ZIP+4 code in the address and otherwise meeting the eligibility requirements of 514 can qualify for ZIP+4 rates. Other pieces can qualify for presort rates and, if First-Class, single piece rates. Eligibility for specific rates differs based upon the class of mail and the presort option used. Specific rate eligibility for ZIP+4 rate mailings presorted under 562.1, 562.2 (presort option available only through March 20, 1993), or 563 is in 562.11, 562.22, and 563.1. Specific rate eligibility for nonpresorted First-Class mailings prepared under 569.1 is in 569.11. Specific rate eligibility for mailings presorted under Chapters 3, 4, or 6, (presort options available only through March 20, 1993) is listed in 324, 327, 424.5, and 628.

514.12 Pieces Prepared With ZIP+4 Barcodes or Delivery Point Barcodes. Mailers may elect to claim mailpieces prepared with correct ZIP+4 barcodes or delivery point barcodes at ZIP+4 rates. Such pieces are eligible for ZIP+4 rates on the same basis as pieces bearing a numeric ZIP+4 code in the address. The ZIP+4 barcodes or delivery point barcodes must be prepared in accordance with 530 and 551. See 514.3 and 514.52 for additional specifications for such pieces.

514.13 Pieces Prepared With 5-Digit Barcodes. ZIP+4 rate mailings prepared with ZIP+4 barcodes or delivery point barcodes may include pieces with correct 5-digit barcodes under the following conditions:

a. All pieces bearing a 5-digit barcode must meet the requirements of 514.3, 520, 530, 540, and 552.

b. When correct 5-digit barcodes are printed directly on mailpieces the pieces may qualify for ZIP+4 rates if they also bear a correct numeric ZIP+4 code (see 530).

c. When 5-digit barcodes are printed on inserts that appear through a barcode window located in the lower right barcode clear zone the pieces do not qualify for any automation-based rate, and may not be counted toward the 85% requirement in 514.3.

514.14 Pieces Prepared with Blank Barcode Windows in Lower Right Barcode Clear Zone. Pieces prepared with barcode windows in the lower right barcode clear zone through which no barcode appears are not eligible for any automation-based rate.

514.2 Minimum Quantity

514.21 First-Class Mailings

514.211 ZIP+4 Presort Rate. Each mailing must contain at least 500 pieces.

514.212 Nonpresorted ZIP+4 Rate. Each mailing must contain at least 250 pieces.

514.22 Second-Class Mailings. There is no minimum quantity requirement for second-class ZIP+4 mailings.

514.23 Third-Class Mailings. Each mailing must contain at least 200 pieces or 50 pounds of pieces.

514.3 Required Percentage of ZIP+4 Coded Pieces

514.31 General. At least 85% of the total pieces in a ZIP+4 rate mailing must bear the correct ZIP+4 code obtained using Coding Accuracy Support System (CASS) certified ZIP+4 or delivery point address matching software as described in 530. This requirement may be applied to all ZIP+4 rate mailings that are part of the same mailing job (instead of to each individual ZIP+4 rate mailing) under the conditions in 568.2.

514.32 ZIP+4 Barcoded or Delivery Point Barcoded Pieces. The correct ZIP+4 barcode or delivery point barcode prepared as required by 530 and 550 satisfies the requirement for a correct ZIP+4 code for purpose of rate qualification and meeting 514.31.

514.4 Addresses. The address on each piece in the mailing must include either the correct ZIP+4 code or the correct 5-digit ZIP Code. The addresses on pieces in mailings prepared with ZIP+4 or delivery point barcodes may bear the numeric equivalent to the delivery point barcode as provided in 517. Each piece in the mailing that bears a ZIP+4 code, or a ZIP+4 barcode or delivery point barcode, must bear an accurate address as specified in 534. The mailing must meet all requirements in 530. See also 514.52.

514.5 Mailpiece Characteristics

514.51 Physical Requirements. Each piece in the mailing must meet the requirements of 521.

Note: If 85% of the pieces of a First-Class nonpresorted ZIP+4 rate mailing are ZIP+4 barcoded or delivery point barcoded, the mailing may meet the weight requirements in 521.132.

514.52 OCR Processing Requirements. Each piece in the mailing, except those prepared with correct ZIP+4 barcodes or delivery point barcodes (see 530), must meet the requirements of 540, including the requirement that the address be printed in a standardized addressing format (see 541). Pieces prepared with ZIP+4 barcodes or delivery point barcodes must meet the requirements of 550.

514.53 Rate Markings

514.531 First-Class Mailings

a. ZIP+4 Presort Rate. [Insert text of current 362.5. Add the following as the next to last sentence: "Carrier route presort level rate pieces must not be included in a ZIP+4 rate mailing."]

b. Nonpresorted ZIP+4 Rate. [Insert text of current 362.4. Add the following as the next to last sentence: "Carrier route presort level rate pieces must not be included in a ZIP+4 rate mailing."]

514.532 Second-Class Mailings. None (other than the second-class imprint—

see 429.625g or 429.625h, and 429.323b(1)). Carrier route presort level rate pieces must not be included in a ZIP+4 rate mailing.

514.533 Third-Class Mailings. [Insert text of current 629.65. Revise the last sentence to read: Carrier route presort level rate pieces must not be included in a 3/5 ZIP+4 rate mailing."]

514.6 Presort and Documentation

514.61 First-Class Mailings

514.611 ZIP+4 Presort Rate. All pieces must be presorted and documented under 562.1, or 563, except that through March 20, 1993, mailings may be presorted and documented under 365 or 366, or 562.2.

514.612 Nonpresorted ZIP+4 Rate. All pieces must be prepared under 566, except that through March 20, 1993, mailings may be prepared under 368.1.

514.62 Second-Class Mailings. All pieces must be presorted and documented under 562.1 or 563, except that through March 20, 1993, mailings may be presorted and documented under one of the options in 447, or under 562.2.

514.63 Third-Class Mailings. All pieces must be presorted and documented under 562.1 or 563, except that through March 20, 1993, mailings may be presorted and documented under 562.2, or under 628.3 and either 641.1 or 647.3.

514.7 Postage Payment

514.71 First-Class Mailings. Postage must be paid by precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with mailings prepared under 562.1, 562.2, 563, or 369.1. See 382 for specific requirements for mailings presorted under 365, 366, or 368 (presort or preparation options that may be used only through March 20, 1993).

514.72 Second-Class Mailings. Postage must be paid through a second-class advance deposit account as described in 462.2.

514.73 Third-Class Mailings. Postage must be paid by one of the following methods: precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with mailings prepared under 562.1, 562.2, or 563. See 661.3, 661.4, and 661.5 for specific requirements for mailings presorted under 628.311, 641, or 647.3 (presort options that may be used only through March 20, 1993).

515 REQUIREMENTS FOR LETTER-SIZE ZIP+4 BARCODED RATE MAILINGS

515.1 Rate Eligibility

515.11 General. Only mailpieces bearing a correct ZIP+4 barcode or delivery point barcode and otherwise meeting the eligibility requirements of 515 can qualify for ZIP+4 Barcoded rates. Other pieces can qualify for ZIP+4 rates, or presort rates, and if First-Class, single piece rates. Eligibility for specific rates differs based upon the class of mail and the presort option used. Specific rate eligibility criteria for ZIP+4 Barcoded rate mailings presorted under 564.1, 564.2 (presort option available only through March 20, 1993), 565, 566, or 567 (presort option available only through March 20, 1993) is in 564.11, 564.22, 565.2, 566.2, or 567.2. Specific rate eligibility criteria for nonpresorted First-Class ZIP+4 Barcoded rate mailings prepared under 569.2 is in 569.21. Specific rate eligibility criteria for mailings presorted under Chapters 3, 4, or 6 (available only through March 20, 1993) is listed in 325, 328, 424.6, and 628.2.

515.12 Pieces Prepared With 5-Digit Barcodes. Pieces with correct 5-digit barcodes may be included in the mailing under the following conditions:

a. All pieces bearing a 5-digit barcode must meet the requirements of 515.3, 520, 530, and 552.

b. Pieces bearing only a 5-digit barcode do not qualify for the ZIP+4 Barcoded rates.

c. When correct 5-digit barcodes are printed directly on mailpieces the pieces may qualify for ZIP+4 rates if they also bear a correct numeric ZIP+4 code (see 530), and meet the requirements of 540.

d. When 5-digit barcodes are printed on inserts that appear through a barcode window located in the lower right barcode clear zone the pieces do not qualify for any automation based rate.

515.13 Pieces Prepared with Blank Barcode Windows in the Lower Right Barcode Clear Zone. Pieces prepared with barcode windows in the lower right barcode clear zone through which no barcode appears do not qualify for any automation-based rate.

515.2 Minimum Quantity

515.21 First-Class Letter-Size ZIP+4 Barcoded Rate Mailings

515.211 ZIP+4 Presort Rate. Each mailing must contain at least 500 pieces.

515.212 Nonpresorted ZIP+4 Rate. Each mailing must contain at least 250 pieces.

515.22 Second-Class Letter-Size ZIP+4 Barcoded Rate Mailings. There is no minimum quantity for second-class ZIP+4 Barcoded rate mailings.

515.23 Third-Class Letter-Size ZIP+4 Barcoded Rate Mailings. Each mailing must contain at least 200 pieces or 50 pounds of pieces.

4515.3 Required Percentage of ZIP+4 Barcoded or Delivery Point Barcoded Pieces

515.31 85% Barcoded Pieces for Entire Mailing. At least 85% of the total number of pieces in each mailing must bear the correct ZIP+4 barcode or delivery point barcode obtained using Coding Accuracy Support System (CASS) certified ZIP+4 or delivery point address matching software in accordance with 530, and prepared as required in 551. This requirement may be applied to all letter-size ZIP+4 Barcoded rate mailings that are part of the same mailing job instead of to individual ZIP+4 Barcoded rate mailings under the conditions in 568.2. See 515.32 for further requirements for the 5-digit portion of the mailing.

515.32 100% Barcoded Pieces for 5-Digit Portion of Mailing. Each piece placed in a 5-digit tray in a tray-based mailing prepared under 564.1 or 564.2, and each piece placed in a 5-digit package in a package-based mailing prepared under 565, 566 or 567 must bear the correct ZIP+4 barcode or correct delivery point barcode prepared as required by 530 and 551.

515.33 Limited Exception to 100% Requirement

a. Mailings Prepared Under 564.2. The 5-digit portion in mailings prepared under 564.2 are exempt from the requirement for 100% ZIP+4 barcoded or delivery point barcoded pieces and need only meet the overall 85% requirement in 515.31. (The option in 564.2 may be used to presort ZIP+4 Barcoded rate mail only through March 20, 1993, after which time mail must be sorted under 564.1, 565, or 566 and meet the requirement for 100% ZIP+4 barcoded or delivery point barcoded pieces in the 5-digit portion.)

b. Mailings Prepared Under 364. The 5-digit portion in mailings prepared under 364 is exempt from the requirement for 100% ZIP+4 barcoded or delivery point barcoded pieces and need only meet the overall 85% requirement in 515.31. (The options in 364 may be used to presort ZIP+4 Barcoded rate mail only through March 20, 1993, after which time mail must be sorted in accordance with 564.1, 565, or 566 and meet the requirement for 100% ZIP+4 barcoded or delivery point barcoded pieces in the 5-digit portion.)

515.4 Addresses. The address on each piece in the mailing must include either the correct numeric 5-digit ZIP Code, the correct numeric ZIP+4 code or the correct numeric equivalent to the delivery point barcode (see 517.3). Each piece in the mailing that bears a ZIP+4 barcode or delivery point barcode must bear an accurate address as specified in 534. The mailing must meet all requirements in 530.

515.5 Letter-Size Mailpiece Characteristics

515.51 Physical Requirements

515.511 Presort Rates. Each piece in the mailing must meet the requirements of 521.

515.512 Nonpresorted ZIP+4 Barcoded Rates (First-Class Only). Each piece in the mailing must meet the criteria for card rates in 311.1 and 322. Each piece in the mailing must also meet the requirements of 521.

515.52 Barcode Requirements. The requirements in 551 apply to pieces bearing ZIP+4 barcodes or delivery point barcodes. The requirements in 552 apply to pieces bearing 5-digit barcodes.

515.53 Rate Marking

515.531 First-Class Letter-Size ZIP+4 Barcoded Rate Mailings

a. Presorted ZIP+4 Barcoded Rate. [Insert current 362.6. Add the following as the next to last sentence: "Carrier route presort level rate pieces must not be included in a letter-size ZIP+4 Barcoded rate mailing."]

b. Nonpresorted ZIP+4 Barcoded Rate. [Insert current 362.7.]

515.532 Second-Class Letter-Size ZIP+4 Barcoded Rate Mailings. None (other than the second-class imprint—see 429.625g or h, and 429.323b(1)). Carrier route presort level rate pieces must not be included in a letter-size ZIP+4 Barcoded rate mailing.

515.533 Third-Class Letter-Size ZIP+4 Barcoded Rate Mailings. [Insert current 629.66.]

515.6 Presort and Documentation

515.61 First-Class Mailings

515.611 Presorted ZIP+4 Barcoded Rate. All pieces must be presorted and documented under 564.1, 565, or 566, except that, through March 20, 1993, mailings may be presorted and documented under one of the options in 364, or under 564.2 or 567.

515.611 Nonpresorted ZIP+4 Barcoded Rate. All pieces must be prepared under 569.2, except that, through March 20, 1993, mailings may be prepared under 368.2.

515.62 Second-Class Mailings. All pieces must be presorted and documented under 564.1, 565, or 566, except that, through March 20, 1993, mailings may be presorted and documented under one of the options in 447, or under 564.2 or 567.

515.63 Third-Class Mailings. All pieces must be presorted and documented under 564.1, 565, or 566, except that, through March 20, 1993, mailings may be presorted and documented under 628.3 and either 641.1 or 647.3, or under 564.2 or 567.

515.7 Postage Payment

515.71 First-Class Mailings. Postage must be paid by precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with mailings prepared under, 564.1, 564.2, 565, 566, 567, and 569.2. See 382 for specific requirements for mailings prepared under 364 or 368. (The preparation options in 364, 368, 564.1, and 567 may be used only through March 20, 1993).

515.72 Second-Class Mailings. Postage must be paid through a second-class advance deposit account as described in 462.2.

515.71 Third-Class Mailings. Postage must be paid by precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with automation rate mailings prepared under, 564, 565, 566, or 567. See 661.3, 661.4, and 661.5 for specific requirements for mailings prepared under 628.312 or 647.322 (preparation options that may be used only through March 20, 1993).

516 REQUIREMENTS FOR FLAT-SIZE ZIP+4 BARCODED RATE MAILINGS

516.1 Rate Eligibility. Only mailpieces bearing a correct ZIP+4 barcode or delivery point barcode and otherwise meeting the eligibility requirements of 516 can qualify for flat-size ZIP+4 Barcoded rates. 5-digit barcoded pieces can qualify for presort rates, or in First-Class mailings only, single piece rates. Eligibility for specific rates differs based upon the class of mail and level of presort (and for First-Class, whether the nonpresorted flat-size ZIP+4 Barcoded rate option is used). Specific rate eligibility for presorted flat-size ZIP+4 Barcoded rate mailings is found in 571.1. Specific rate eligibility for First-Class nonpresorted flat-size ZIP+4 barcoded rate mailings is contained in 577.1.

516.2 Minimum Quantity

516.21 First-Class Flat-Size ZIP+4 Barcoded Rate Mailings

516.211 Presorted ZIP+4 Barcoded Rate. Each mailing must contain at least 500 pieces.

516.212 Nonpresorted ZIP+4 Barcoded Rate. Each mailing must contain at least 250 pieces.

516.22 Second-Class Flat-Size ZIP+4 Barcoded Rate Mailings. There is no minimum quantity for second-class flat-size ZIP+4 Barcoded rate mailings.

516.23 Third-Class Flat-Size ZIP+4 Barcoded Rate Mailings. Each mailing must contain at least 200 pieces or 50 pounds of pieces.

516.3 Required Percentage of ZIP+4 Barcoded or Delivery Point Barcoded Pieces.

At least 85% of the total number of pieces in each mailing must bear the correct ZIP+4 barcode or delivery point barcode for the delivery address obtained using Coding Accuracy Support System (CASS) certified ZIP+4 or delivery point address matching software in accordance with 530, and prepared as required in 551. All remaining pieces must bear the correct 5-digit barcode for the delivery address prepared as required in 552. Pieces that do not bear a correct and properly prepared 5-digit barcode, ZIP+4 barcode, or delivery point barcode are not permitted in the mailing. See 575.2 for application of the 85% requirement to all barcoded rate mailings within a mailing job instead of to individual barcoded rate mailings.

516.4 Addresses. The address on each piece in the mailing must include either the correct numeric 5-digit ZIP Code, the correct numeric ZIP+4 code, or the correct numeric equivalent to the delivery point barcode (see 517.3). Each piece in the mailing that bears a ZIP+4 barcode or delivery point barcode must bear an accurate address as specified in 534. The mailing must meet all requirements in 530.

516.5 Flat-Size Mailpiece Characteristics

516.51 Physical Requirements. Each piece in the mailing must meet the requirements of 522.

516.52 Barcode Requirements. The requirements in 551 apply to pieces bearing ZIP+4 barcodes or delivery point barcodes. The requirements in 552 apply to pieces bearing 5-digit barcodes.

516.53 Rate Marking

516.531 First-Class Flat-Size ZIP+4 Barcoded Rate Mailings

a. Presorted ZIP+4 Barcoded Rate. [Insert current 362.6. Add the following as the next to last sentence: "Carrier route presort level rate pieces must not be included in a flat-size ZIP+4 Barcoded rate mailing."]

b. Nonpresorted ZIP+4 Barcoded Rate. [Insert current 362.7.]

516.532 Second-Class Flat-Size ZIP+4 Barcoded Rate Mailings. None (other than the second-class imprint—see 429.625g or h, and 429.323b(1)).

516.533 Third-Class Flat-Size ZIP+4 Barcoded Rate Mailings. [Insert current 629.66.]

516.6 Packaging, Sacking or Palletizing, and Documentation

516.61 First-Class Flat-Size ZIP+4 Barcoded Rate Mailings

516.611 Presorted ZIP+4 Barcoded Rates. All pieces in each mailing must be presorted together to the finest extent under 572 and 573. The documentation requirements in 574 or 575 must also be met.

516.612 Nonpresorted ZIP+4 Barcoded Rates. All pieces in each mailing must be packaged and sacked under 577. Where applicable, mailings must be documented under 577.221 or physically separated under 577.222.

516.62 Second- and Third-Class Flat-Size ZIP+4 Barcoded Rate Mailings. All pieces in each mailing must be presorted together to the finest extent under 572 and 573. Alternatively, mailings may be palletized under 576. All mailings must be documented under 574 or 575. Additional documentation is required for palletized mailings.

516.7 Postage Payment

516.71 First-Class Flat-Size ZIP+4 Barcoded Mailings. Postage must be paid by precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with flat-size ZIP+4 Barcoded rate mailings.

516.72 Second-Class Mailings. Postage must be paid through a second-class advance deposit account as described in 462.2.

516.73 Third-Class Flat-Size ZIP+4 Barcoded Mailings. Postage must be paid by precanceled stamps (see 143); postage meter (see 144); or permit imprint (see 145). See 580 for specific requirements relating to use of these postage payment methods with flat-size ZIP+4 Barcoded rate mailings.

517 DELIVERY POINT BARCODE. [INSERT TEXT OF CURRENT 515.]

* * * * *

560 Presort and Documentation for Letter-Size Mail

561 GENERAL

561.1 Grouping/Packaging

561.11 Secured Packages

561.111 Use of Packages

a. When Required. The requirements of this section apply whenever packages are prepared. The regulations governing when packaging is required and when packaging is prohibited for mailings are in 562.122, 562.124, 562.562.231, 562.24, 563.21, 563.3, 564.122, 564.124, 564.231, 564.233, 565.31, 565.4, 566.32, 566.42, 566.5, 567.32, 567.42, and 567.5. (These sections also indicate if separator cards may be used instead of secured packages in accordance with 561.12.)

b. General Rules. (1) *Postcard-Size Pieces.* Mailings of all classes prepared under both tray-based and package-based preparation options that consist entirely of postcard-size pieces (pieces not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) must be prepared in secured packages under 561.11, so that the pieces will maintain their integrity during transit.

(2) *Full Trays in Tray-Based Mailings.* Within tray-based mailings prepared under 562.1, 562.2, 564.1, or 564.2, that contain pieces larger than postcard size, groups of pieces within full trays must not be prepared in secured packages (nor delineated by separator cards), except that pieces that exceed the size of the tray may be packaged as provided in 561.23.

(3) *Overflow Trays.* Within tray-based mailings prepared under 562.1, 562.2, 564.1, or 564.2, pieces in less-than-full overflow trays must be prepared in secured packages and labeled under 561.131.

(4) *AADC Trays in Package-Based Mailings.* Within package-based mailings prepared under 563, 565, or 566, all groups/packages in AADC trays must be prepared into secured packages under 561.11. The packages must be labeled when prepared under 563 or 565.

561.112 General Requirements for Secured Packages

a. Size. Packages should measure approximately 4 inches in thickness. The maximum permissible thickness is 6 inches.

b. Materials. Packages may be secured using one of the following materials which are listed in order of preference: rubber bands, elastic strapping, flat plastic strapping, or string.

c. Approval Required for Use of Elastic Strapping. Elastic strapping must not be used unless it has been approved by the Engineering and Development Center prior to use (see 561.113) to ensure that it can adequately keep the packages intact during Postal Service handling, that it can stretch and then resume its original shape, and that it can be easily removed by stretching.

d. Placement of Packaging Material. Packages up to 1 inch thick must be secured with at least one rubber band, elastic strap, plastic strap, or string placed tightly around the girth. Packages thicker than 1 inch must be secured with at least two rubber bands, elastic straps, plastic straps or strings. For rubber bands and elastic strap, the first band or strap must be placed around the length and the second, around the girth so that it crosses over the first. It is recommended that packages secured with plastic strap or string also be strapped or tied in this order. For all methods of packaging, the packaging material should be placed as near as possible to the center of the mailpiece to provide the greatest stability during transit and handling. More than two rubber bands, elastic or plastic straps, or strings may be used to secure a package, but the packaging material must never lie along the outer 1 inch of any edge.

561.113 Testing of Elastic Strapping Material. [Insert current 561.223.]

561.12 Groups/Packages Delineated By Separator Cards

561.121 Use of Separator Cards. Within full optional city (second-class only), 3-digit, and SCF trays in mailings prepared under one of the packaged-based options in 563, 565, 566, and 567, use of separator cards to delineate groups/packages is recommended as an alternative to secured packages, except for mailings of postcard-size pieces (see 561.111b(1)). Separator cards must also be used to delineate groups of 100 pieces within trays of residual mail when the physical separation option is used. Within full trays in mailings prepared under a tray-based preparation option under 562.1, 562.2, 564.1, or 564.2, groups of pieces must not be delineated by separator cards (nor secured into packages). Separator cards are not permitted in AADC trays within package-based mailings prepared under 563, 565, 566, or 567 (secured packages are required).

561.122 Physical Requirements for Separator Cards. [Insert current 561.32.]

561.123 Placement of Separator Cards. The separator card must be placed in front of the group it is delineating.

561.13 Labeling Groups/Packages

561.131 Labeling Secured Packages. [Insert current 561.222.]

561.132 Labeling Groups/Packages Delineated by Separator Cards. Where groups/packages are required to be labeled, the first piece behind the separator card must be labeled as described in 561.131. Alternatively, the separator card appearing in front of the package separation may either bear the appropriate pressure sensitive label for the type of package as described in 561.131, or the separator card may bear the words "5-digit," "Optional City," or "3-digit" as appropriate for the package. If one of these alternatives is used, either the appropriate pressure sensitive label or the descriptive words must be placed at the top of each separator card in a position that allows the information to be easily read when the card is placed in trays of mail.

561.2 Trays

561.21 Use of Trays Required. All letter-size mailings prepared under Chapter 5 must be prepared in trays.

561.22 Size and Availability of Trays

561.221 Two-Foot Trays. Only 2-foot MM letter trays and sleeves may be used to prepare mailings under Chapter 5. The Postal Service will provide 2-foot trays and sleeves. Mailers may only use trays provided by the Postal Service.

Limited Exception: Until December 20, 1992, mailers may use 1-foot trays and sleeves provided by the Postal Service (to the extent such trays are available as they are being phased out) when preparing tray-based mailings under 562.2 and 564.2.

561.222 [Reserved for Extended MM Trays]

561.23 Placement of Pieces in Trays

561.231. Trays Containing Only Pieces Not Exceeding Width of Trays. [Insert current 561.421. Change references to "Exhibit 561.421a" and "Exhibit 561.421b" to "Exhibit 561.231a" and "Exhibit 561.231b."]

561.232 Trays Containing Pieces Exceeding Width of Trays. [Insert current 561.422. Change the reference "561.43" to "561.24". Revise the fourth sentence to read as follows: "In full trays, mailers must do one or both of the following to maintain the orientation of pieces in the tray: (a) place dividers made of cardboard or other stiff material that is the same width and height as the tray between the rows of pieces in the tray; (b) secure the pieces together into packages with rubber bands, elastic or plastic strapping, or string as provided in 561.11." Change the reference "561.22" to "561.1". Change the reference "Exhibit 561.422a" to "Exhibit 561.232a". Change the reference "Exhibit 561.422b" to "Exhibit 561.232b".]

561.24 Definition of Full Tray. [Insert current 561.43. Change subsections and Exhibit references accordingly. Change references "561.422" to "561.232".]

561.25 Volume per Tray—Preparation of Overflow Trays

561.251 When Overflow Trays Not Permitted. Overflow trays are not permitted in package-based mailings prepared under 563, 565, 566, or 567, except for AADC trays under 563, 565 and 566, and except for SCF trays under 567 (available only through March 20, 1993).

561.252 When Overflow Trays Permitted. Overflow trays are permitted for all tray levels in tray-based mailings prepared under 562 or 564, and at the last level of destination tray for package-based mailings (AADC trays for mailings prepared under 565 or 566, SCF trays for mailings prepared under 567).

561.253 Requirements for Preparation of Overflow Trays. Mailers should distribute the volume among trays when more than one tray is prepared for the same destination to ensure that the maximum number of full (as defined in 561.24) 5-digit, optional city (second-class mailings only), 3-digit, SCF, and AADC (package-based mailings only) trays are prepared. After this step, the remaining pieces for a destination for which a full tray is prepared may be placed in an overflow tray that is less than full, provided the pieces in the overflow tray are secured into packages and labeled under 561.11 and 561.131. Only one overflow tray for a particular 5-digit, optional city (second-class mailings only), 3-digit, SCF, or AADC (package-based mailings only) destination may be prepared in a mailing.

561.254 Labeling of Packages Within Overflow Trays. Pieces in 5-digit overflow trays must be secured and labeled as 5-digit packages, pieces in second-class optional city trays must be secured and labeled as optional city packages, and pieces in 3-digit, SCF and AADC (package-based mailings only) overflow trays must be secured into and labeled as 3-digit packages.

Exception: Packages in overflow AADC trays prepared under 566 must be secured into 3-digit packages under 561.11, but are not required to be labeled.

561.255 Listing of Overflow Trays. To allow accurate verification of the mailing by postal acceptance personnel, a listing of all overflow trays in tray-based mailings prepared under 562 or 564 must be provided in addition to the other documentation required. The listing must be by unique tray number or top line of the tray label for mailings documented under the tray label option in 562.14, 562.24, 564.14, or 564.24. The listing must be by level of tray and ZIP Code destination for mailings documented under the ZIP Code option in 562.14, 562.24, 564.14, or 564.24.

561.26 Sleeving and Banding

561.261 General Requirement. [Insert current 561.45. Add the following to the end of the first sentence: ", except as provided in 561.262.]

561.262 Limited Exception. When all the pieces in a mailing are for delivery within the SCF where the mail is entered, the local manager of the processing center may grant an authorization to submit the mailing in trays without sleeves. Mailers must obtain written authorization from the manager of the processing center that has authority over the SCF where the mailing is to be entered prior to presenting mailings without sleeves for acceptance.

561.27 Tray Labels

561.271 General. A tray label must be securely placed in the tray label holder at the end of each tray. Tray labels must not be taped to the end of trays. It is strongly recommended that mailers use barcoded tray labels, and for ZIP+4 Barcoded rate mailings, zebra coded tray labels as described in 561.272. The Postal Service is evaluating the mandatory use of barcoded tray labels in the future and, if a decision is made to require them, will publish a proposed rule in the **Federal Register**. Until such time, mailers may produce their own non-barcoded tray labels under the conditions in 561.273. Mailers may obtain barcoded labels (and limited quantities of non-barcoded tray labels) from the Postal Service.

561.272 Barcoded and Zebra Coded Tray Labels. Barcoded labels enable scanning and sortation of trays by automated equipment. Zebra coded labels allow for easy visual identification of trays containing ZIP+4 barcoded or delivery point barcoded mail. Tray labels that are machine-printed with barcodes, and for ZIP+4 Barcoded rate mailings, zebra codes, may be obtained from the Postal Service. Mailers may also produce their own barcoded/zebra coded tray labels

provided the labels meet the criteria in 369.2, 446, or 646 as appropriate to the rate claimed (see Exhibit 561.274).

561.273 Tray Label Requirements

a. General Requirements. (1) *Color.* The color of tray labels for First- and third-class mail must be white or manila. The color of tray labels for second-class mail must be pink.

(2) *Size/Paper Stock.* Tray labels must fall within the following tolerances:

(a) *Height (vertical):* Not less than 1.9 inches nor more than 2.015 inches.

(b) *Length (horizontal):* Not less than 3.25 inches nor more than 3.375 inches.

(c) *Thickness:* Not less than 0.007 inch nor more than 0.012 inch.

(d) *Stock:* The paper stock for labels must be 100 pounds ±20 percent (500 sheets, 24 by 36 inches).

(3) *Method of Preparation.* It is preferred that labels be machine-printed to ensure they are legible. However, legible hand-printed labels are acceptable. Illegible labels are not acceptable.

(4) *Trailing Zeros.* Two zeros may appear following 3-digit ZIP Code prefixes on tray labels.

(5) *Abbreviations.*

(a) *State Abbreviations.* It is preferred that the official two-letter state abbreviations shown in Publication 65, National Five-Digit ZIP Code and Post Office Directory, be used on tray labels.

(b) *City Abbreviations.* It is preferred that the name of cities or towns be spelled out on tray labels. However, in instances where this is not possible due to limitations on the number of characters that can appear on a line, the official postal name abbreviations listed in Publication 65 must be used. If a postal name is not listed, a recognizable abbreviation may be used. Care should be taken to use abbreviations that cannot be confused with the names of other cities or towns.

(c) *Mailer Names.* The name of the mailer may be abbreviated on the third line of labels in any recognizable fashion. Care should be taken to use abbreviations that cannot be confused with the name of another mailer.

(d) *Other.* Other required items of information on labels must not be abbreviated unless specifically provided for in 562.1, 562.2, 563, 564.1, 564.2, 565, 566, 567, or 569, as appropriate to the rate claimed and method of presort chosen.

(6) *Definition of Lines.* There are three printed lines required on tray labels that are referred to as: Line 1—Destination; Line 2—Contents; and Line 3—Mailer Information Line. See Exhibit 564.274 for examples of labels ordered from the Postal Service.

(7) *Barcodes.* It is recommended that tray labels include a barcode, prepared as required in 369.2, 446.2, or 646.2 (see Exhibit 564.274). Tray labels in ZIP+4 Barcoded rate mailings should also include a zebra code as provided in 369.2, 446.2, or 646.2 (see Exhibit 564.274).

b. Guidelines for Required Information. (1) *Line 1—Destination.* Line 1, the destination line, must be the first visible line on the label (except as otherwise provided for in 561.273a [Extraneous Information]). It must be completely visible and legible when placed in the tray label holder. The destination line must contain only the information specified by 563.23, 564.33, 564.43, or 564.5, as appropriate to the rate claimed.

(2) *Line 2—Contents.* The contents line must be the second visible line on the label. The information required in 562.1, 562.2, 563, 564, 565, 566, and 567 must be the only items of information shown on this line.

(3) *Line 3—Mailer Information Line.* The mailer information line contains information about the mailer that gives the Postal Service the opportunity to provide feedback to customers regarding mailing problems. This information can vary depending upon a particular mailer's operations. For example, the information on Line 3 may be the name of the mailer that is preparing the mail and the city/state location of that mailing plant, a particular product or publication name and the city/state location of that mailing plant, or the name of the mailer and the city/state location of the post office where the mailing will be entered.

c. Extraneous Information. Extraneous information on tray labels is information that is not required by the Postal Service to be printed or written upon the label. For barcoded tray labels, extraneous information is limited to the printer information line and the mailer information line (see 369.2, 446, or 646). Barcoded tray labels produced by the Postal Service can not contain any extraneous information of the mailer on the printer information line. Other mailer prepared labels may contain extraneous information as follows:

(1) *Above Line 1 (Printer Information Line).* Mailers may place extraneous information on the printer information line (the line above the destination line (line 1) of a tray label) provided the maximum character height of the text is not greater than 0.083 inch (6-point type).

(2) *Line 1—Destination.* No extraneous information is allowed on the destination line of tray labels.

(3) *Line 2—Contents.* No extraneous information is allowed on the contents line of tray labels.

(4) *Line 3—Mailer Information Line.*

(a) *Preceding Required Information.* The following may appear before the required information on the mailer information line of tray labels:

(i) A mailer code assigned by the post office.

(ii) The word "Mailer" or "From (FR)."

(iii) The words "Entered at" or similar notations.

(b) *Following Required Information.* Mailer codes and any other extraneous information may appear to the right of (after) the mailer and mailer location information on tray labels. However, if such information is shown, it must not consist of numerals that have the appearance of a ZIP Code or 3-digit ZIP Code prefix.

(5) *Between Required Lines.* Extraneous information must not be placed between required printed lines 1 and 2 (between the destination and contents lines) of tray labels. Only a blank line may appear between these required printed lines. Mailer codes or other extraneous information may appear between the contents line and the mailer information line. If such information is shown, it should not consist of numerals that have the appearance of a ZIP Code or 3-digit ZIP Code prefix.

(6) *Optional Lines 4 and 5 (Below the Mailer Information Line).* Mailers may place codes or any other information on optional fourth or fifth lines of tray labels appearing below the mailer information line.

562 TRAY-BASED PRESORTED ZIP+4 MAIL

562.1 OPTION 1—Tray-Based (Required March 21, 1993, Optional Until Then)

562.11 Rate Eligibility

562.111 First-Class Mail

a. 5-Digit, 3-Digit and SCF Trays. ZIP+4 coded pieces in 5-digit, 3-digit, and SCF trays can qualify for the ZIP+4 Presort rate. Other pieces in these trays can qualify for the Presorted First-Class rate. 5-digit, 3-digit, and SCF trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25) except that one less-than-full SCF tray for the SCF serving the entry post office is permitted (see 562.123d). There must be at least 50 pieces for each 3-digit ZIP Code area placed in 3-digit and SCF trays.

b. Residual Trays. Residual pieces (pieces remaining after preparing full 5-

digit trays and after preparing groups of 50 or more pieces per 3-digit area to full 3-digit and SCF trays) can qualify for the nonpresorted ZIP+4 rate if ZIP+4 coded or the single-piece First-Class rate.

562.112 Second-Class Mail

a. 5-Digit Trays. ZIP+4 coded pieces in 5-digit trays can qualify for the level B5/H5/J5 ZIP+4 rates. Other pieces in 5-digit trays can qualify for the level B5/H5/J5 presort rates. These trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

b. Optional City Trays. ZIP+4 coded pieces in optional city trays for a city listed in Exhibit 122.63a can qualify for the level B3/H3/J3 ZIP+4 rates. Other pieces in optional city trays can qualify for the level B3/H3/J3 presort rates. These trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

c. 3-Digit Trays

(1) *Unique 3-Digit Trays.* ZIP+4 coded pieces in 3-digit trays for a unique 3-digit ZIP Code area listed in Exhibit 122.63b can qualify for the level B3/H3/J3 ZIP+4 rates. Other Pieces in unique 3-digit trays can qualify for the level B3/H3/J3 presort rates. These trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

(2) *Nonunique 3-digit Trays.* ZIP+4 coded pieces in nonunique 3-digit trays can qualify for the level A/G/J1 ZIP+4 rates. Other pieces can qualify for the level A/G/J1 presort rates. These trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

d. SCF and Residual/Basic Trays. ZIP+4 coded pieces in SCF and residual/basic trays can qualify for the level A/G/J1 ZIP+4 rates. Other pieces in SCF and residual/basic trays can qualify for the level A/G/J1 presort rates. Less-than-full trays (as defined in 561.24) are not permitted, except one overflow tray per SCF area is permitted as provided in 561.25 and one less-than-full tray for the SCF serving the post office where the mailing is entered is permitted (see 562.123d). Residual trays (which contain pieces remaining after filling SCF trays) may be less than full.

562.113 Third-Class Mail

a. 5-Digit, 3-Digit and SCF Trays. ZIP+4 coded pieces in 5-digit, 3-digit, and SCF trays can qualify for the 3/5 ZIP+4 rates. Other pieces in these trays can qualify for the 3/5 presort rates. These trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25), except that one less-than-full SCF tray for the SCF serving the entry post office is permitted (see 562.123d).

b. Residual/Basic Trays. ZIP+4 coded pieces in residual/basic trays can qualify for the basic ZIP+4 rate. Other pieces in residual/basic trays can qualify for the basic presort rate. AADC trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25). Residual/basic trays (containing pieces remaining after filling AADC trays) may be less than full.

562.12 Sortation Requirements

562.121 General Preparation. Pieces must be sorted to full trays as described in 562.123 in the following sequence: 5-digit, optional city (second-class only), 3-digit, and SCF. Preparation of 5-digit trays may be omitted when mailings contain only pieces for the 3-digit ZIP Code areas designated as automated sites (listed in Exhibit 122.63m) and the mailing is prepared under 562.125. One overflow tray that is less than full is also permitted for any tray destination for which at least one full tray has been prepared (see 561.25). Pieces remaining after sortation to these tray levels are residual/basic and must be prepared as described in 562.124. The general traying requirements in 561.2 must be met. Pieces in certain types of trays must be grouped by ZIP Code, or packaged, or both as described in 561.122 for destination trays, and as described in 561.124 for residual/basic trays.

562.122 Grouping and/Packaging Within Destination Trays

a. Grouping. There are no requirements to group pieces by ZIP Code within 5-digit, optional city, or 3-digit trays. Within SCF trays, pieces for the same 3-digit ZIP Code must be grouped together in the trays. It is recommended, but not required, that the groups of pieces for the same 3-digit ZIP Code area be placed in SCF trays in numeric sequence (for example, pieces for 023 would be placed in an SCF tray in front of pieces for 024). In First-Class mailings, pieces in 3-digit and SCF trays must be part of a group of at least 50 pieces for the same 3-digit ZIP Code area. It is recommended that all the First-Class pieces in the group of 50 or more pieces for the same 3-digit area be placed in the same tray. However, where all the First-Class pieces cannot be placed in the same full tray, the remaining pieces in the group of 50 or more for that 3-digit ZIP Code area may be placed in an overflow tray to the same destination, or in a tray to the next level of sortation.

b. Packaging. (1) *Full Trays.* Neither packaging nor use of separator cards is permitted within mailings of any class that contain pieces that are larger than postcard-size dimensions (4¼ inches high, 6 inches long, and .0095 thick) within full 5-digit, optional city (second-class only), 3-digit, and SCF trays. Within mailings that consist entirely of postcard-size pieces, the pieces must be secured into packages as described in 561.11 to maintain their orientation within the trays during transit. No package labels are required for this packaging.

Exception: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. Packaging is therefore permitted until March 21, 1993 for mailings of pieces that are wider than standard MM trays that are prepared in accordance with 561.23.

(2) *Overflow Trays.* Pieces in overflow trays to any tray destination must be secured into packages as described in 561.11 to maintain their orientation within the tray during transit. All packages in overflow trays must be labeled as described in 561.131. Packages in 5-digit overflow trays must be labeled as 5-digit packages. Packages in second-class optional city trays must be labeled as optional city packages. Pieces in 3-digit and SCF overflow trays must be packaged by 3-digit ZIP Code area and labeled as 3-digit packages.

562.123 Tray Sortation—3/5 Presort Tier

a. 5-Digit Trays. When there are enough pieces to the same 5-digit destination to fill a tray, a 5-digit tray must be prepared for that destination. Less-than-full trays are not permitted, except that one overflow tray per 5-digit ZIP Code area is permitted as provided in 561.25. Full and overflow 5-digit trays must be labeled as follows:

(1) Nonmilitary Mail

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer Information (see 561.273b(3)).

Example:

DETROIT MI—48235
FCM ZIP+4 PRESORT
NB COMPANY UNION SC

(2) Military Mail

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

APO AE—09128
FCM ZIP+4 PRESORT
NB COMPANY UNION SC

b. Second-Class Optional City Trays. After preparing all possible full 5-digit trays, and at the mailer's option, overflow 5-digit trays, and before preparing 3-digit trays, second-class mailers may prepare optional city trays for the multi-ZIP Coded cities listed in Exhibit 122.63a. Less-than-full trays are not permitted except that one overflow tray per optional city is permitted as provided in 561.25. Full and overflow optional city trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by the city.

Line 2: Contents (2C or NEWS) followed by "ZIP+4 PRESORT" and directly under the ZIP Code on Line 1, "CITY".

Line 3: Mailer information (see 561.273b(3)).

Example:

LA JOLLA CA—92037
2C ZIP+4 PRESORT CITY
HARD TIMES NEWS UNION SC

c. 3-Digit Trays. After preparing all possible full 5-digit trays, full optional city trays (if applicable, for second-class mailings only), and at the mailer's option, overflow trays to those destinations, if there are enough pieces to fill a tray for a 3-digit ZIP Code destination, a 3-digit tray must be prepared. (For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. See 562.122.) Less-than-full trays are not permitted, except that one overflow tray per 3-digit ZIP Code area is permitted as provided in 561.25. Full and overflow 3-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3-Digit ZIP Code Prefixes.*

Line 1: City, two-letter state abbreviation and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

KNOXVILLE TN—379
FCM ZIP+4 PRESORT
LMM COMPANY FAIRFAX VA

(b) *Other 3-Digit ZIP Code Prefixes.*

Line 1: Name of the SCF (letters "SCF" omitted) and the two-letter state abbreviation of the SCF, followed by the 3-digit prefix of the pieces contained in the tray (See Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

WATERLOO IA—506
FCM ZIP+4 PRESORT
XYZ CORP ROCHESTER NY

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO prefix.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

FPO AE—095
FCM ZIP+4 PRESORT
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

d. SCF Trays. After preparing all possible full 5-digit trays, any full optional city trays (if applicable, for second-class mailings only), all possible full 3-digit trays, and at the mailer's option, overflow trays to those destinations, if there are enough pieces for one of the SCFs listed in Exhibit 122.63d to fill a tray, an SCF tray for that destination must be prepared. Less-than-full trays are not permitted, except that one overflow tray per SCF area is permitted as provided in 561.25, and one less-than-full tray for the SCF serving the post office of entry is permitted. (For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area as provided in 562.122a. For all classes of mail, the pieces must be grouped by 3-digit area within each SCF tray. See 562.122.) Full SCF trays and overflow SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation, and 3-digit ZIP Code prefix for the SCF shown in Exhibit 122.63d.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

SCF SAN ANTONIO TX—780
FCM ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

Note: Where there is no SCF listed for a given 3-digit area in Exhibit 122.63d (such as military mail and the Virgin Islands) mailers must place such pieces in a tray labeled on the top line in accordance with Exhibit 122.63t, when a full tray can be prepared in accordance with 122.63t. The second and third lines of tray labels for such trays are the same as those for SCF trays described above. Pieces in such trays are not eligible for SCF entry discounts.

562.124 Tray Preparation—Residual/Basic Tier

a. General. For mailings prepared under the tray sortation in 562.123, residual/basic pieces are those that cannot be trayed in accordance with 562.123a through 562.123d. For mailings prepared under the optional automated site traying option in 562.125, residual/basic pieces are those that cannot be trayed in accordance with 562.125. Residual/basic pieces must be placed in trays that are separate from trays of pieces to destination sorts. The traying requirements in 561.2 must be met. The pieces in residual/basic trays must be prepared under either 562.124b or 562.124c below. Once the basic requirements in 562.124b through 562.124c are met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy.*

b. Option 1: ZIP Code Sequencing and Listing. Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. If the last tray is less than full, the pieces in the tray must be secured into and labeled as 3-digit packages under 561.11 and 561.131. In addition, full trays consisting entirely of postcard-size pieces (pieces measuring not more than 4¼ inches high by 6 inches long and .0095 inch thick), of any class of mail, must be secured into and labeled as 3-digit packages under 561.11 and 561.131. Mailers must provide a listing by 3-digit ZIP Code area of the various rate qualification categories as

described in 562.14. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, separate residual/basic trays must be prepared for the ZIP Code areas eligible for the destination BMC rate as provided in 624.722. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" or "ZIP+4 WKG".

Line 3: Mailer information (see 561.273b(3).

Example:

DIS WILKES-BARRE PA—186
FCM ZIP+4 WORKING
EXETER CO DUPONT PA

c. Option 2: Physical Separation by Rate Qualification.

(1) *Basic Tray Separations.* Residual/basic pieces bearing correct ZIP+4 codes (see 530) must be separately trayed from residual/basic pieces that do not. The trays must be physically grouped according to these separations when presented to the post office for verification.

(2) *Additional Tray Separations.*

(a) *First-Class Nonidentical-Weight Metered or Precanceled Stamp Mailings.* There is a different first ounce rate for pieces weighing over 2 ounces in First-Class Mail. Accordingly, in nonidentical-weight First-Class metered or precanceled stamp mailings in which there are both pieces weighing 2 ounces or less and pieces weighing over 2 ounces, and postage at the exact rate is not affixed to each piece, further tray separations must be made by pieces weighing over 2 ounces and pieces weighing 2 ounces or less for each of the two basic separations required in 562.124c(1). The trays must be physically grouped according to these separations when presented to the post office for verification. Precanceled stamp mailings must meet the tray separation requirements in 562.124c(2) (b) when postage to cover additional ounce increments is not affixed to each piece as permitted under 581.34.

(b) *First-Class Nonidentical Weight Precanceled Stamp Mailings in which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed under 581.34 or 581.4, further tray separations must be made by pieces of each ounce increment in the mailing for each of the two basic separations required in 562.124c(1). The trays must be physically grouped according to these separations when presented to the post office for verification.

(c) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* For metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, pieces weighing one ounce or less must be further separated so that postcard-rate pieces are trayed separately from letter-rate pieces for each of the two basic separations required in 564.124c(1). The additional tray separations in 562.124c(2)(b) may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

(d) *Second-Class Mailings Containing In-County and Outside County Pieces.* Within second-class mailings containing both in-county and outside-county pieces, in-county pieces must separately trayed from outside-county pieces for each of the two basic tray separations required in 562.124c(1) above. The trays must be physically grouped according to these separations when presented to the post office for verification.

(e) *Third-Class Mailings Claiming Destination BMC Rates.* In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, further tray separations by pieces within the BMC service area and pieces outside the BMC service area must be made for each of the two basic separations required in 562.124c(1).

(3) *Separation Into Groups of 100 Pieces Within Each Tray.* Within each of the trays resulting from sortation in accordance with 562.124c(1) and 562.124c(2), the pieces must be separated into groups of 100 pieces. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays consisting entirely of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of residual/basic trays, the actual number of pieces in the group must be written on the separator card. The total number of residual/basic pieces in each rate category must be added to the summary portion of the documentation required in 562.145.

(4) *Tray Labels.* Option 2 residual/basic trays must be labeled as follows:

(a) *Trays Containing ZIP+4 Coded Pieces.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" or "ZIP+4 WKG".

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS WILKES-BARRE PA—186
FCM ZIP+4 WORKING
EXETER CO DUPONT PA

(b) *Trays Containing Pieces Not ZIP+4 Coded.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C LTRS) followed by "WORKING" or "WKG."

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS WILKES-BARRE PA—186
FCM WORKING
EXETER CO DUPONT PA

562.125 Optional Tray Sortation to Automated Sites

a. Description and General Requirements. (1) *Definition.* This option applies to mailings that include only pieces for the 3-digit areas designated as automated sites in Exhibit 122.63m. Under this option, preparation of 5-digit trays may be omitted. When this option is used, pieces to 3-digit ZIP Code areas not listed in Exhibit 122.63m must be prepared as a separate mailing, except that in First-Class mailings such pieces may be included in the residual/basic portion. (This is because single piece rates are paid on First-Class residual mail.)

(2) *General Requirements.* The requirements of 562.121 and 562.122 must be met. The mail must be trayed to

3-digit and SCF destinations as described in 562.125b and 562.125c. (The traying requirements in 562.123 do not apply.) After these trays are prepared, remaining residual/basic pieces must be prepared under 562.124. The SCF destinations for mailings prepared to automated sites differ from those in mailings trayed under the required sortation in 561.123, and appear in Exhibit 122.63n.

b. 3-Digit Trays. When there are enough pieces to fill a tray for one of the 3-digit ZIP Code areas listed in Exhibit 122.63m, a 3-digit tray must be prepared. For First-Class Mail, there must be at least 50 pieces per 3-digit ZIP Code area as provided in 562.122a. Less-than-full trays are not permitted, except that one overflow tray per 3-digit ZIP Code area is permitted as provided in 561.25. Full and overflow 3-digit trays must be labeled as follows:

Line 1: City, two-letter state abbreviation and 3-digit prefix listed in Exhibit 122.63m.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT."

Line 3: Mailer information (see 561.273b(3)).

Example:

KNOXVILLE TN—379
FCM ZIP+4 PRESORT
LMM COMPANY FAIRFAX VA

c. SCF Trays. If, after preparing all possible full 3-digit trays (and, at the mailer's option, 3-digit overflow trays) there are enough pieces for one of the SCFs listed in Exhibit 122.63n to fill a tray, an SCF tray for that destination must be prepared. Less-than-full trays are not permitted, except that one overflow tray per SCF area is permitted as provided in 561.25, and one less-than-full tray for the SCF serving the post office where the mail is entered is permitted provided that SCF is listed in Exhibit 122.63n. (For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area as provided in 562.122a. For all classes of mail, the pieces must be grouped by 3-digit area within each SCF tray. See 562.122) Full SCF trays and overflow SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation, and 3-digit ZIP Code prefix for the SCF shown in Exhibit 122.63n.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT."

Line 3: Mailer information (see 561.273b(3)).

Example:

SCF SAN ANTONIO TX—780
FCM ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

d. Residual/Basic Pieces. Pieces remaining after preparing trays in accordance with 562.125 a through c above are residual/basic and must be prepared in accordance with 562.124.

562.13 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 562.1 Presort" at the top of the mailing statement. In addition, if mail is trayed according to the automated site option in 562.125, the words "Automated Site" must also be written at the top of the mailing statement.

562.14 Documentation

562.141 Purpose. Documentation enables the Postal Service to verify the percentage of ZIP+4 coded pieces in the mailing. It also enables the Postal Service to verify the number of pieces claimed at each rate category on the mailing statement, and to verify that any difference between the amount of postage affixed to the pieces in the mailing and the amount of postage owed for the pieces is paid. It does this by providing the Postal Service with a detailed description of what is being mailed, how it is prepared, the rate for which pieces qualify, and how many pieces have a ZIP+4 code. The USPS will compare the numbers shown on the mailer's documentation with counts of samples taken from the actual mailing to confirm that the information on the documentation is accurate.

Note: For second-class mailings, the documentation described in this section will provide the presort per piece rate documentation and the 85% ZIP+4 coded documentation required in 424.841 and 424.843. Documentation in addition to the documentation described in 562.14 must be prepared for mailings of second-class publications as set forth in 424.84.

562.142 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 562.143, with the following exceptions:

a. No documentation is required (other than a listing of overflow trays if applicable as required in 561.25) when every piece in the mailing bears the correct ZIP+4 code and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 rate mailings to be made from that mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

562.143 Heading and General Format Requirements. The top of the first page of the documentation must show the class of mail and the words "DMM 562.1 Presort". If mail is sorted according to the automated site option in 562.125, the words "Automated Site" must also be shown at the top of the documentation. The words "ZIP Code Option" or "Tray Label Option" must also appear at the top of the first page of the documentation to indicate whether the listing option in 562.144b(1) or 562.144b(2) is used. When only some pieces in a third-class mailing qualify for a destination entry rate, or when a mailing contains pieces that qualify for more than one destination entry rate, a description of the characters used within the listing portion of the documentation to identify the ZIP Codes qualifying for each destination entry discount must also appear at the top of the first page (see 562.144d(6)). The documentation must consist of a listing portion (562.144) and a summary portion (562.145). It is recommended that one of the formats in Exhibit 562.144b(1) or 564.144b(2) be used. If another format is used, it must allow Postal Service verification personnel to easily determine the information required by 562.144 and 562.145 using a single report. See 562.144f for an exception to the single report requirement for second-class mailings containing more than one edition and/or publication. Information that could not pertain to the class being mailed (such as column headings for Level A, Level B, Level J rates in a third-class mailing) must not be included in the documentation.

562.144 Required Information—ZIP Code Listing Portion

a. Tray Sortation Level Sections. The ZIP Code listing portion of the documentation must be divided into sections by level of tray sortation in the following order: 5-digit trays; second-class optional city trays (if applicable); 3-digit trays; SCF trays; and residual/

basic trays (for mailings with residual/basic pieces prepared under 562.124b sequencing and listing). Each section must be preceded by a heading describing its contents (i.e., "5-Digit Trays," "Optional City Trays," "3-Digit Trays," "SCF Trays," and "Residual/Basic Trays").

b. Tray Label and/or ZIP Code Column(s). Within each tray sortation level section, all tray destinations in the mailing for that type of tray must be listed. The tray destinations must be listed either by the ZIP Code alone as described in 562.144b(1) (ZIP Code Option), or by both the exact tray label (or tray number) and ZIP code as described in 562.144b(2) (Tray Label Option).

(1) *ZIP Code Option.* For each tray sortation level section in the mailing, list the ZIP Code(s) contained in all trays to that level of sortation under a column heading "ZIP Code." The ZIP Codes within each section must be listed in ascending numeric order by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for second-class optional city trays (see Exhibit 122.63a), and by 3-digit Zip Code for the 3-digit, SCF, and residual/basic trays (residual/basic trays for mailings prepared under the ZIP Code sequencing and listing Option in 562.124b). For example, two full 5-digit trays and one overflow 5-digit tray for ZIP Code 22033 would be listed under a single entry "22033" under the 5-digit tray sortation level section. (The destination 22033 would also have to appear on the separate overflow tray listing—see 561.25.)

(2) *Tray Label Option.*

(a) *Tray Label Column.* Within each tray sortation level section, list all trays in the mailing that are sorted to that tray sortation level. The trays must be listed either by a unique tray number that appears on the tray label, or by the exact top line of the tray label. For example two full 5-digit trays and one overflow 5-digit tray for ZIP Code 22030 would be listed on three separate lines either by individual tray numbers (such as 010, 011, and 012, or by the top line of the each tray label (such as Fairfax VA 22030, Fairfax VA 22030, and Fairfax VA 22030). The tray listings must appear under a column heading "Tray Number" or "Tray Label," as applicable. If unique tray numbers are used, the trays must be listed in ascending numerical order by tray number within each tray sortation level section. If the exact top line of tray labels is used, the trays must be listed in ascending numerical order by the ZIP Code shown on the tray label within each tray sortation level section. The ZIP Codes in each tray must also be listed in a separate column as described in 562.144b(2)(b) below.

(b) *ZIP Code Column.* For each tray in the mailing, the ZIP Codes contained in the tray must be listed under a column heading "ZIP Code." The ZIP Codes must be listed in ascending numeric order by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for second-class optional city trays as listed in Exhibit 122.63a, and by 3-digit ZIP Code for 3-digit, SCF, and residual/basic trays (residual/basic trays for mailings prepared under the ZIP Code sequencing and listing option in 562.124b).

c. Basic Columns and Line Entries for Rates and Totals. For each ZIP Code entry listed under either the ZIP Code Option or the Tray Label Option the documentation must show:

(1) the number of pieces bearing a ZIP+4 code under a column heading (or column headings—see 562.144d) naming the rate of postage for which the pieces qualify based upon the class of mail (see 562.11) and indicating that the pieces are ZIP+4 coded.

(2) the number of pieces that are not ZIP+4 coded under a column heading (or column headings—see 562.144d) naming the rate for which the pieces qualify based on the class of mail (see 562.11) and indicating the pieces are not ZIP+4 coded.

(3) the cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding ZIP Code entries within the same tray sortation level section of the documentation) under a column heading "Cumulative Total." (The totals accumulate for each tray level section only.)

d. Additional Rate Column Listings or Line Entries.

(1) *First-Class Metered or Precanceled Stamp Mailings Containing Pieces Both Over and Under 2 Ounces.* Within the residual/basic tray section of the documentation for metered and precanceled stamp mailings in which postage at the exact rate is not affixed, two rate columns, one for reporting pieces weighing less than 2 ounces and one for reporting pieces weighing 2 ounces or more must be shown for each of the basic column separations described in 562.144c. Each column heading must contain the name of the residual/basic rate (see 562.111b) for which the pieces qualify, the weight category, and a statement as to whether the pieces are ZIP+4 coded. Precanceled stamp mailings in which postage to cover additional ounce increments is not affixed must meet the additional documentation requirements in 562.144d(2) below.

(2) *First-Class Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34 or 581.4, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic column separations described in 562.144c. Each rate column heading must show the name of the rate (see 562.111) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 coded.

(3) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within the residual/basic tray section of the documentation for metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter rate must be shown for each of the basic column separations described in 562.144c. The column headings must contain the name of the rate (see 564.111) for which the pieces qualify, the weight category, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 coded. The additional column separations in 562.144d(2) are also necessary for all tray sortation sections of the documentation for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34 or 581.4.

(4) *Second-Class Mailings Containing Both In-County and Outside-County Rate Pieces.* For second-class mailings containing both in-county and outside-county pieces, separate columns for in-county pieces and for outside-county pieces must be shown for pieces listed under 562.144c(1), 562.144c(2), and 562.144c(3) for each tray level section. In addition, for 3-digit trays, separate columns for unique 3-digit trays that qualify for the level B3 or H3 rates, and for the level J3 rates must be shown, and separate columns for non-unique 3-digit trays that qualify for level A or G rates, and for level J1 rates must be shown, for each of the three general categories of pieces in 562.144c(1), 562.144c(2), and 562.144c(3). (Up to eight rate column headings showing applicable rate

categories are possible in the 3-digit tray portion.) To reduce the number of columns across a page, mailers may break the 3-digit tray portion of the documentation into sections by rate category: section 1 for optional city and unique 3-digit trays recorded at the level B3/H3 and J3 rates, and section 2 for nonunique 3-digit trays at the level A/G or J1 rates. The column headings must contain the name of the rate (see 562.112) for which the pieces qualify, and a statement as to whether or not the pieces are ZIP+4 coded.

(5) *Second-Class Combined Mailings.* See 562.144f.

(6) *Third-Class Mailings Claiming Destination SCF or Destination BMC Rates.* In third-class mailings in which some combination of SCF destination entry, BMC destination entry, and no destination entry discount is claimed (that is, not all pieces in the mailing qualify for the same destination discount) the ZIP Codes on the listing that are eligible for the SCF entry discount or the BMC entry discount must be marked with an asterisk or some other unique character. If both the SCF discount and BMC discount are claimed in the same mailing, a different character from the one used to mark the ZIP Codes eligible for the SCF discount must be used to mark the ZIP Codes eligible for the BMC discount.

e. Section Column Totals. At the end of each tray level section in the listing, show the total number of pieces listed under each rate and total column.

f. Additional Requirements For Second-Class Combined Mailings. In addition to the documentation required by 564.14, second-class mailings combining pieces from more than one second-class publication or edition must provide additional information by publication or edition as required by 424.853. This additional information may be provided as a separate report or reports.

562.145 Summary Portion

a. Second-Class Mailings and Identical-Weight Permit Imprint Mailings.

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. (For residual/basic mail sorted under the physical separation option in 562.124c, information is also obtained from the manual counts of residual/basic pieces in the separate trays for each rate category.) When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The total number of pieces claimed at that rate.

(b) The applicable rate (amount) of postage.

(c) The postage charges for that rate category (the total number of pieces times the amount of postage).

Note: The applicable rate amount and postage charges are not required for second-class mailings.

(2) Totals

(a) A grand total of the postage charges for all the rate entries for the entire mailing must be shown (optional for second-class mailings). This grand total is the amount of postage owed for the mailing and the amount to be deducted from the advance deposit account for permit imprint mailings, or is the amount of second-class per piece charges for the mailing prior to deductions for the nonadvertising percentage discount and zone rate discounts.

(b) The total number of pieces in the mailing that bear a ZIP+4 code, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 coded pieces in the mailing must be shown.

(d) The summary may also include the listing of overflow trays required by 561.25, if applicable.

b. First- and Third-Class Metered and Precanceled Stamp Mailings

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portion of the documentation. For residual/basic mail sorted under the physical separation option in 562.124c, information is also obtained from the manual counts of pieces in the separate trays for each rate category. For nonidentical-weight First-Class precanceled stamp mailings in which stamps to cover the additional ounces are not affixed, each rate category must be listed more than once so that there is a separate listing for each ounce increment at that rate. First-Class postcard-rate pieces must also be listed separately from letter-rate First-Class pieces. For First-Class metered mailings containing residual pieces over and under two ounces, each residual rate category must have a separate listing for pieces weighing 2 ounces or less and a separate listing for pieces weighing over 2 ounces. When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The number of pieces claimed at that rate.

(b) The amount of additional postage due for each piece at that rate (when the amount of postage affixed is less than the rate of postage owed).

(c) The postage due for pieces claimed at that rate (the total number of pieces at that rate times the amount of postage due per piece).

(2) Totals

(a) A grand total of the additional postage charges due for all the rate entries for the entire mailing must be shown. This grand total is the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account.

(b) The total number of pieces in the mailing that bear a ZIP+4 code, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 coded pieces in the mailing must be shown.

(d) The summary may also include the listing of overflow trays required by 561.44, if applicable.

562.2 OPTION 2—Tray-Based Presorted ZIP+4 Mail—Available Through March 20, 1993

562.21 [Reserved]

562.22 Rate Eligibility. [Insert current 562.22. Change all references "561.43" to "561.24." Change all references "561.44" to "561.25."]

562.23 Sortation Requirements

562.231 ZIP Code Grouping and Packaging Requirements. [Insert current 562.231. Change the reference "561.422" to "561.232." Change all references "561.44" to "561.25." Change all references "561.22" to "561.11 and 561.131."

562.232 Traying Requirements

a. General. The requirements in 561.2 must be met.

b. Required Tray Sortation—Qualifying Pieces.

(1) *5-Digit Trays.* [Insert current 562.232b(1). Change the reference "561.44" to "561.25". Insert "(a) Nonmilitary Mail" above current tray label information. Insert new section 562.232b(1)(b) as follows:

(b) Military Mail

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and complete 5-digit APO or FPO ZIP Code designation.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example:

APO AE—09128
FCM ZIP+4 PRESORT
NB COMPANY UNION SC

(2) *Optional City Trays.* [Insert 562.233b. Change the reference "561.44" to "561.25". Change the reference "562.232b(3)(b)" to "562.232b(4)(b)".]

(3) *3-Digit Trays.* [Insert 562.232b(2). Change the first sentence to read "After preparing all possible full 5-digit trays, all possible full optional city trays (if applicable, for second-class mailings only), and at the mailer's option overflow trays to those destinations, there are enough pieces remaining to fill a tray for a 3-digit ZIP Code destination, a 3-digit tray must be prepared." Delete the sentence "In second-class mailings the mailer may elect to prepare optional city trays to obtain the level B3/H3/J3 ZIP+4 rates (see 562.233); if so, optional city trays must be prepared before preparing 3-digit trays." Change the reference "561.44" to "561.25". Insert the heading (a) Nonmilitary Mail in front of the current tray label information. Renumber current 562.232b(2)(a) as 562.232b(3)(a)(i). Renumber current 562.232b(2)(b) as 562.232b(3)(a)(ii). Insert new subsection 562.232b(3)(b) as follows:

(b) Military Mail

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location.

Example:

FPO AE—095
FCM ZIP+4 PRESORT
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

(4) *SCF Trays.* [Insert current 562.232b(3). Change all references "562.233" to "562.232b(2)". Change the reference "561.44" to "561.25." Change all references "561.22" to "561.11 and 561.131." Change the reference in the exception "562.232b(2)" to 562.232b(3)". Add the following note: "Note: When there is no SCF listed for a given 3-digit area in Exhibits 122.63c or 122.63d, (such as military mail and the Virgin Islands) mailers must place such pieces in a tray labeled on the top line in accordance with Exhibit 122.63t. The second and third line of such labels will be the same as for SCF trays described above."] Pieces in such trays are not eligible for SCF entry discounts.

562.24 Sortation Requirements-Residual/Basic Portion

562.241 General. [Insert current 562.241. Add the following: "Residual pieces must be placed in trays that are separate from trays of qualifying pieces. The traying requirements in 561.2 must be met for First-Class residual trays. The pieces in residual trays in First-Class mailings must be prepared under either 562.241a or 562.241b. Once the basic requirements in 562.252 have been met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times as set fourth in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy.*

a. Option 1: ZIP Code Sequencing and Listing. [Insert current 562.242a. Replace the first sentence with the following: "Residual pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence." Change the reference "561.22" to "561.11 and 561.131."]

b. Option 2: Physical Separation by Rate Qualification. [Insert current 562.242b. Add the following as the second sentence: "Additional tray separations may be required as set forth in 562.124c(2) to accurately account for postage." Change the reference "561.221" to "561.11."]

562.25 Documentation

562.251 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 562.252, with the following exceptions:

a. No documentation is required (other than a listing of overflow trays if applicable as required in 561.25) when every piece in the mailing bears the correct ZIP+4 code and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 presort rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

562.252 Information Required

a. Tray Label Option

* * * * *

(2) *Information.* [Insert current 562.252a(2). Add the following as the second sentence: "See 562.144d for additional columns that may be required to account for pieces qualifying for each rate category."]

(3) *Summary.* [Insert current 562.252a(3). Change the reference "561.44" to "561.25."]

[Delete 562.252a(4).]

b. Listing Portion—ZIP Code Option

* * * * *

(2) *Information.* [Insert current 562.252b(2). Add the following as the last sentence: "See 562.144d for additional columns that may be required to account for pieces qualifying for each rate category."]

(3) *Summary.* [Insert current 562.252b(3). Change the reference "561.44" to "561.25."]

[Delete 562.252b(4).]

562.26 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 562.2 Presort" at the top of the mailing statement.

563 PACKAGE-BASED PRESORTED ZIP+4 MAIL

563.1 Rate Eligibility

563.11 First-Class Mail

563.111 5-Digit and 3-Digit Packages. Pieces bearing a ZIP+4 code in 5-digit and 3-digit packages prepared under 563.2 can qualify for the ZIP+4 Presort

rate. Other pieces in these packages can qualify for the Presorted First-Class rate.

563.112 Residual Pieces. Pieces bearing a ZIP+4 code in the residual portion of the mailing prepared under 563.3 can qualify for the nonpresorted ZIP+4 Presort rate. Other pieces can qualify for the single-piece First-Class rate.

563.12 Second-Class Mail

563.121 5-Digit, Optional City, and Unique 3–Digit Packages. Pieces bearing a ZIP+4 code in 5-digit, optional city, and unique 3-digit packages prepared under 563.2 can qualify for the level B5/H5/J5 (5-digit packages) or the level B3/H3/J3 ZIP+4 rates. Other pieces in these packages can qualify for the level B5/H5/J5 rates (5-digit packages) or the level B3/H3/J3 rates.

563.122 Nonunique 3-Digit Packages. Pieces bearing a ZIP+4 code in nonunique 3-digit packages prepared under 563.2 can qualify for the level A/G/J1 ZIP+4 rates. Other pieces in these packages can qualify for the level A/G/J1 rates.

563.123 Residual/basic Pieces. Pieces bearing a ZIP+4 code in the residual/basic portion of the mailing prepared under 563.3 can qualify for the level A/G/J1 ZIP+4 rates. Other pieces can qualify for the level A/G/J1 rates.

563.13 Third-Class Mail

563.131 Qualifying 5-Digit and 3–Digit Packages. Pieces bearing a ZIP+4 code in 5-digit and 3-digit packages prepared under 563.2 can qualify for the 3/5 ZIP+4 rates. Other pieces in these packages can qualify for the 3/5 presort rates.

563.132 Residual/Basic Pieces. Pieces bearing a ZIP+4 code in the residual/basic portion of the mailing prepared under 563.3 can qualify for the basic ZIP+4 rates. Other pieces can qualify for the basic presort rate.

563.2 Sortation Requirements—3/5-Digit Portion

563.21 Grouping/Packaging

563.211 General Rules

a. Groups/packages must meet the requirements in 561.1.

b. In mailings consisting entirely of pieces that fall within the dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) the pieces in any type of tray must always be secured into packages in accordance with 561.11.

c. All pieces, regardless of size, placed in AADC trays must be secured into packages in accordance with 561.11.

563.212 5-Digit Groups/Packages. When there are 10 or more pieces for the same 5-digit ZIP Code destination, they must be grouped together. Preparation of groups/packages containing fewer than 10 pieces for a 5-digit area is not permitted. Each group of pieces for the same 5-digit area must be secured together into a package (or packages) and each package must be labeled as described in 561.11 and 561.131, except that within 5-digit, second-class optional city, 3-digit, and SCF trays of mailings containing any pieces exceeding the dimensions for postcards, separator cards may be used to delineate pieces for the same 5-digit ZIP Code area as an alternative to securing pieces into packages. 5-digit groups delineated by separator cards must be labeled as described in 561.132. Neither packaging, separator cards, nor labeling, is required in full 5-digit trays, except for mailings consisting entirely of postcard size pieces which must be packaged (see 563.311b).

Note: 5-digit groups/packages need not be prepared when mailings sorted according to the automated site option in 563.4.

563.213 Optional City Groups/Packages (Second-Class Mailings Only). After preparing all possible 5-digit groups/packages, second-class mailers may choose to prepare groups of 50 or more pieces for the same optional city listed in Exhibit 122.63a, to obtain the level B3/H3/J3 ZIP+4 rates. Preparation of groups/packages containing fewer than 50 pieces for an optional city is not permitted. Each group of pieces for the same optional city must be secured together into a package (or packages) and each package must be labeled as described in 561.11 and 561.131, except that within optional city, 3-digit, and SCF trays of mailings containing any pieces exceeding the dimensions for postcards (see 563.311b), separator cards may be used to delineate pieces for the same optional city as an alternative to securing pieces into packages. Optional city groups delineated by separator cards must be labeled as described in 561.132.

563.214 3-Digit Groups/Packages. After preparing all possible 5-digit groups/packages under 563.212, and any optional city packages under 563.231 (second-class mail only), if there are 50 or more pieces remaining for a 3-digit ZIP code area, they must be prepared in 3-digit groups/packages. Preparation of groups/packages containing fewer than 50 pieces for the same 3-digit area is not permitted. Each group of pieces for the same 3-digit area must be secured together into a package (or packages) and each package must be labeled as described in 561.11 and 561.131, except that within 3-digit and SCF trays of mailings containing any pieces exceeding the dimensions for postcards (see 563.311b), separator cards may be used to delineate pieces for the same 3-digit ZIP Code area as an alternative to securing the pieces into packages. 3-digit groups delineated by separator cards must be labeled as described in 561.132.

563.215 Residual/Basic Groups/Packages. Pieces remaining after preparing packages in accordance with 563.212 through 563.214 are residual/basic pieces. Residual/basic pieces must be sorted in accordance with one of the options in 563.3.

563.22 Tray Sortation—3/5 Presort Tier

563.221 General. The requirements in 561.2 must be met. All pieces in a group/package for the same 5-digit, same optional city (second-class only), or same 3-digit destination must be placed together in the same tray. For example, all packages for ZIP Code 22033 within a 3-digit tray must be grouped together within the 3-digit tray. All pieces for the same group/package destination should be placed in the same tray. For example, 100 pieces for 220 should be placed in the same 3-digit tray, and not split between a 3-digit tray and an SCF tray if physically possible. When all the pieces for the same group/package destination cannot physically fit in the same tray, the remaining pieces for the group/package destination must be placed in either another full tray for the same tray destination, or in a tray for the next level of sortation (or a less-than-full AADC tray for the same AADC destination).

Note: Automated sites mailings may be sorted in accordance with 563.4 rather than as specified in 563.22.

563.222 5-Digit Trays. Whenever there are enough groups/packages for the same 5-digit ZIP Code area to fill a tray, a 5-digit tray must be prepared for that destination. Less-than-full 5-digit trays are not permitted. 5-digit trays must be labeled as follows:

a. Nonmilitary Mail

Line 1: City, two letter state abbreviation, and 5-digit ZIP Code

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

Line 3: Mailer information (see 561.273b(3))

Example:

DETROIT MI—48235
FCM ZIP+4 PRESORT
NB COMPANY UNION SC

b. Military Mail

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and complete 5-digit APO or FPO ZIP Code designation.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

APO AE—09128
FCM ZIP+4 PRESORT
NB COMPANY UNION SC

563.223 Optional City Trays (Second-Class Only). After preparing all possible 5-digit trays, second-class mailers who have chosen to prepare optional city groups/packages may prepare optional city trays whenever there are enough 5-digit and optional city groups/packages for the same optional city listed in Exhibit 122.63a to fill a tray. Less-than-full optional city trays are not permitted. Optional city trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by the city.

Line 2: Contents (2C or NEWS) followed by "ZIP+4 PRESORT" and directly under the ZIP Code on Line 1, "CITY".

Line 3: Mailer information (see 561.273b(3)).

Example:

LA JOLLA CA—92037
2C ZIP+4 PRESORT CITY
HARD TIMES NEWS UNION SC

563.224 3-Digit Trays. After preparing all possible 5-digit trays, and any optional city trays (second-class mail only), if there are enough 5-digit, optional city (if applicable), and 3-digit groups/packages for the same 3-digit ZIP Code area to fill a tray, a 3-digit tray must be prepared. Less-than-full 3-digit trays are not permitted. 3-digit trays must be labeled as follows:

a. Nonmilitary Mail

(l) Unique 3-Digit ZIP Code Prefixes

Line 1: City, two-letter state abbreviation and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT."

Line 3: Mailer information (see 561.273b(3)).

Example:

KNOXVILLE TN—379
FCM ZIP+4 PRESORT
LMM COMPANY FAIRFAX VA

(2) Other 3-Digit ZIP Code Prefixes

Line 1: Name of the SCF (letters "SCF" omitted) and the two-letter state abbreviation of the SCF, followed by 3-digit prefix of the pieces contained in the tray (see Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example:

WATERLOO IA—506
FCM ZIP+4 PRESORT
XYZ CORP ROCHESTER NY

b. Military Mail

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 562.273b(3)).

Example:

FPO AE—095
FCM ZIP+4 PRESORT
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. *Example:* APO/FPO AADC 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

563.225 SCF Trays. After preparing all possible 5-digit trays, any optional city trays (second-class mail only, see 563.223), and all possible 3-digit trays, if there are groups/packages (5-digit, second-class optional city, or 3-digit packages) remaining for one of the SCFs listed in Exhibit 122.63d serving more than one 3-digit area, an SCF tray must be prepared. Less-than-full SCF trays are not permitted, except that one SCF tray for the SCF serving the post office where the mailing is entered is permitted. SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit SCF code as shown in Exhibit 122.63d

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT"

Line 3: Mailer information (see 561.273b(3))

Example:

SCF SAN ANTONIO TX—780
FCM ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

563.226 AADC Trays. After preparing all possible 5-digit trays, any optional city trays (second-class mail only, see 563.223), and all possible 3-digit and SCF trays, remaining groups/packages (5-digit, second-class optional city, or 3-digit) must be trayed to one of the AADCs listed in Exhibit 122.63t. The groups/packages in all AADC trays must be secured into 5-digit, optional city, or 3-digit packages as appropriate and labeled. Use of separator cards is not permitted in AADC trays. AADC trays may be less than full. AADC trays must be labeled as follows:

Line 1: Applicable label information for the AADC shown in Exhibit 122.63t

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "AADC ZIP+4 PRESORT"

Line 3: Mailer information (see 561.273b(3))

Example

DIS PROVIDENCE RI—028
FCM AADC ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

563.3 Tray Preparation—Residual/ Basic Portion

563.31 General. For mailings prepared under the tray sortation in 563.22, residual/basic pieces are those pieces remaining after preparing packages in accordance with 563.212 through 563.214. For mailings prepared under the optional automated site option in 563.4, residual/basic pieces are those pieces remaining after preparing packages in accordance with 563.41 through 563.43. Residual/basic pieces must be placed in trays separate from those of the 3/5 presort tier, except as provided in 563.34. The traying requirements in 561.2 must be met. Residual/basic pieces must be prepared in accordance with one of the options listed in 563.32 through 563.34. Once the basic requirements in 563.32 through 563.34 have been met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy*.

563.32 Option 1: ZIP Code Sequencing and Listing. Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. If the last tray is less than full,

the pieces in the tray must be secured into and labeled as 3-digit packages as provided in 561.11 and 561.131. In addition, full trays consisting entirely of postcard-size pieces (pieces measuring not more than 4¼" high by 6" long by .0095" thick), of any class of mail, must be secured into and labeled as three-digit packages as provided in 561.11 and 561.131. Mailers must provide a listing by 3-digit ZIP Code area of the various rate qualification categories as described in 563.53. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, separate residual/basic trays must be prepared for the ZIP Code areas eligible for the destination BMC rate as provided in 624.722. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" (or "ZIP+4 WKG")

Line 3: Mailer information (see 561.273b(3))

Example

DIS BAKERSFIELD CA 932
FCM ZIP+4 WKG
NBT CO BAKERSFIELD CA

563.33 Option 2: Physical Separation by Rate Qualification.

563.331 Basic Tray Separations. Residual/basic pieces bearing correct ZIP+4 codes must be separately trayed from residual/basic pieces that do not. The trays must be physically separated according to these separations when presented to the post office for verification.

563.332 Additional Tray Separations for First-Class and Second-Class Mailings.

a. First-Class Nonidentical Weight Metered or Precanceled Stamp Mailings. There is a different first ounce rate for pieces weighing over 2 ounces in First-Class Mail. Accordingly, in nonidentical-weight First-Class metered or precanceled stamp mailings in which there are both pieces weighing 2 ounces or less and pieces weighing over 2 ounces, and postage at the exact rate is not affixed to each piece, further tray separations must be made by pieces weighing over 2 ounces and pieces weighing 2 ounces or less for each of the two basic separations required in 563.331 above. The trays must be physically grouped according to these separations when presented to the post office for verification. Precanceled stamp mailings must meet the tray separation requirements in 563.332b when postage to cover additional ounce increments is not affixed to each piece as permitted under 581.34 or 581.4.

b. First-Class Nonidentical Weight Precanceled Stamp Mailings in which Postage to Cover Additional Ounce Increments is Not Affixed. In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed under 581.34 or 581.4, further tray separations must be made by pieces of each ounce increment in the mailing for each of the two basic separations required in 563.331. The trays must be physically grouped according to these separations when presented to the post office for verification.

c. First-Class Mailings Containing Both Letter-Rate and Postcard Rate Pieces. For metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, pieces weighing one ounce or less must be further separated so that postcard-rate pieces are trayed separately from letter-rate pieces for each of the two basic separations required in 563.331. The additional tray separations in 563.332b may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

d. Second-Class Mailings Containing In-County and Outside County Pieces. Within second-class mailings containing both in-county and outside-county pieces, in-county pieces must be trayed separately from outside-county pieces for each of the two basic tray separations required in 563.331 above. The trays must be physically grouped according to these separations when presented to the post office for verification.

e. Third-Class Mailings Claiming Destination BMC Rates. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, further tray separations by pieces within the BMC service area and pieces outside the BMC service area must be made for each of the two basic separations required in 563.331.

563.333 Separation Into Groups of 100 Pieces Within Each Tray. Within each of the trays resulting from sortation in accordance with 563.331 and 563.332, the pieces must be separated into groups of 100 pieces. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays consisting entirely of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of residual/basic trays, the actual number of pieces in the group must be written on the separator card. The total number of residual/basic pieces in each rate category must be added to the summary portion of the documentation required in 563.534.

563.334 Tray Labels. Option 2 residual/basic trays must be labeled as follows:

a. Trays Containing ZIP+4 Coded Pieces

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" (or "ZIP+4 WKG").

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS BAKERSFIELD CA—932
FCM ZIP+4 WORKING
NBT CO BAKERSFIELD CA

b. Trays Containing Pieces Not ZIP+4 Coded

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS) followed by "WORKING" or "WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
FCM WORKING
COAL CO DUPONT PA

563.34 Option 3: Placement in AADC Trays of the 3/5 Presort Tier. Under this option, whenever there are residual/basic pieces for an AADC area for which an AADC tray was prepared within the 3/5 presort tier, the residual/

basic pieces for that AADC area must be secured into and labeled as 3-digit packages and placed in the AADC tray with qualifying mail. Residual/basic pieces for 3-digit areas for which there is no corresponding AADC tray of qualifying mail must be placed in ascending numeric 3-digit ZIP Code sequence within separate trays containing only residual/basic pieces as described in 563.32. Mailers must provide a listing by 3-digit ZIP Code area under the residual/basic presort tier section of the documentation as described in 563.532 of the various rate qualification categories for both the pieces placed in AADC trays and the pieces trayed in separate residual/basic trays. Trays containing only residual/basic pieces must be labeled as described in 563.32.

563.4 Optional Tray Sortation to Automated Sites

563.41 Definition and General Requirements. Preparation of 5-digit packages and trays may be omitted when only pieces for the 3-digit areas designated as automated sites in Exhibit 122.63m are included in the mailing. When this option is used, pieces to 3-digit ZIP Code areas not listed in Exhibit 122.63m must be prepared as a separate mailing, except that in First-Class mailings such pieces may be included in the residual portion. (This is because single piece rates are paid on First-Class residual mail.) Mailings prepared under this option must be packaged and trayed in accordance with 563.42 and 563.43.

563.42 Grouping and Packaging Requirements. The mail for 3-digit automated site areas must be prepared in 3-digit groups/packages as required in 563.214. Optional city packages are not permitted for second-class mailings.

563.43 Traying Requirements—Automated Site 3/5 Presort Tier.

563.431 3-Digit Trays. When there are enough groups/packages for the same 3-digit ZIP Code area to fill a tray, a 3-digit tray must be prepared. Less-than-full 3-digit trays are not permitted. 3-digit trays must be labeled as follows:

Line 1: City, two-letter state abbreviation and 3-digit prefix listed in Exhibit 122.63m.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example

PATERSON NJ—074
FCM ZIP+4 PRESORT
LMM COMPANY FAIRFAX VA

563.432 SCF Trays. After preparing all possible 3-digit trays, if there are enough 3-digit groups/packages remaining for one of the SCFs listed in Exhibit 122.63n to fill a tray, an SCF tray must be prepared. Less-than-full SCF trays are not permitted, except one less-than-full tray for the SCF serving the post office where the mail is entered is permitted (provided that SCF is listed in Exhibit 122.63n). SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit SCF code as shown in Exhibit 122.63n.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 PRESORT".

Line 3: Mailer information (see 561.273b(3)).

Example

SCF RENO NV—894
FCM ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

563.433 AADC Trays. After preparing all possible 3-digit and SCF trays, if there are packages remaining for one of the AADCs listed in Exhibit 122.63o, an AADC tray must be prepared. The groups in all AADC trays must be secured into 3-digit packages and labeled under 561.11 and 561.131. Use of separator cards is not permitted in AADC trays. AADC trays must be labeled as follows:

Line 1: Applicable label information for the AADC shown in Exhibit 122.63o.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "AADC ZIP+4 PRESORT"

Line 3: Mailer information (see 561.273b(3)).

Example

DIS MACON GA—310
FCM ZIP+4 PRESORT
NBT CO BAKERSFIELD CA

563.44 Residual/Basic Preparation. Pieces remaining after preparation in accordance with 563.42 and 563.43 are residual/basic pieces and must be prepared in accordance with 563.3. Residual/basic pieces in second- and third-class mailings are limited to pieces to the 3-digit areas listed in Exhibit 122.63m. For First-Class mailings, pieces for any ZIP Code area may be included in the residual portion. See 563.41.

563.5 Documentation

563.5 Purpose. Documentation enables the Postal Service to verify the percentage of ZIP+4 coded pieces in the mailing. It also enables the Postal Service to verify the number of pieces claimed at each rate category on the mailing statement, and to verify that any difference between the amount of postage affixed to the pieces in the mailing, and the amount of postage owed for the pieces is paid. It does this by providing the Postal Service with a detailed description of what is being mailed, how it is prepared, the rate for which pieces qualify, and how many pieces have a ZIP+4 code. The USPS will compare the numbers shown on the mailer's documentation with counts of samples taken from the actual mailing to confirm that the information on the documentation is accurate.

Note: For second-class mailings, the documentation described in this section will provide the presort per piece rate documentation and the 85% ZIP+4 coded documentation required in 424.841 and 424.843. Documentation in addition to the documentation described in 564.14 must be prepared for mailings of second-class publications as set forth in 424.84.

563.52 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 563.53, with the following exceptions:

a. No documentation is required when every piece in the mailing bears the correct ZIP+4 code and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

563.53 Information Required.

563.531 Heading and General Format Requirements. The top of the first page of the documentation must show the class of mail and the words "DMM 563 Presort." When only some pieces in a third-class mailing qualify for a destination entry rate, or when a mailing contains pieces that qualify for more than one destination entry rate, a description of the characters used within the listing portion of the documentation to identify the ZIP Codes qualifying for each destination entry discount, must also appear at the top of the first page (see 563. The documentation must consist of ZIP Code

listings for the 3/5 presort tier and the residual/basic presort tier as described in 563.532, (except for residual/basic pieces prepared under the physical separation option in 563.33), as well as a summary as described in 563.533. At the mailer's option, additional information showing the trays in which the pieces appear may also be included. It is recommended that one of the formats show in Exhibit 563.53A or 563.53B be used. If another format is used, it must allow Postal Service verification personnel to easily determine the information required by 563.532 and 563.533 using a single report. See 563.532f for an exception to the single report requirement for second-class mailings containing more than one edition and/or publication. Information that could not pertain to the class being mailed (such as column headings for Level A, Level B, Level J rates in a third-class mailing) must not be included in the documentation.

563.532 Required Information—ZIP Code Listing Portion.

a. Presort Tier Sections. The ZIP Code listing portion of the documentation must be divided into two sections by presort tier; the 3/5 presort tier and the residual/basic presort tier. The residual/basic section is not required if residual/basic mail is prepared under the physical separation option in 563.33. Each presort tier section must be preceded by a heading that names the presort tier.

b. ZIP Code Column. The 5-digit or 3-digit ZIP Codes of pieces in all qualifying packages in the 3/5 presort tier of the mailing must be listed in ascending numeric order under a column heading "ZIP Codes." 5-digit packages must be listed by 5-digit ZIP Code, second-class optional city packages by lowest assigned 5-digit ZIP Code (see Exhibit 222.63a), and 3-digit packages by 3-digit ZIP Code. The ZIP Code listing for the residual/basic portion must be a single section that lists ZIP Codes for residual/basic pieces by 3-digit ZIP Code. The ZIP Code column must be listed using one of the following two methods:

(1) *ZIP Code Listings Divided into Sections by Type of Package (See Exhibit 563.53A).*

(a) *3/5 Presort Tier.* The ZIP Code listing for the 3/5 presort tier must be divided into sections by type of group/package (5-digit, second-class optional city, 3-digit). Each section must be preceded by a heading indicating the type of group/package to be listed. Under the 5-digit section, pieces in 5-digit groups/packages must be listed by 5-digit ZIP Code. In second-class mailings under the optional city section, optional city groups/packages must be listed by the lowest assigned 5-digit ZIP Code for the city shown in Exhibit 122.63a. Under the 3-digit section, pieces in 3-digit groups/packages must be listed by 3-digit ZIP Code.

(b) *Residual/Basic Presort Tier.* The ZIP Code listing for the residual/basic portion must be a single section that lists ZIP Codes for residual/basic pieces by 3-digit ZIP Code.

(2) *Continuous ZIP Code List (See Exhibit 565.53B).*

(a) *3/5 Presort Tier.* All packages are listed in numeric sequence in one section. For First- and third-class mailings, as well as second-class mailings that do not contain optional city packages, 5-digit packages must be listed by 5-digit ZIP Code and 3-digit packages must be listed by 3-digit ZIP Code. For second-class mailings containing optional city packages, 5-digit ZIP Codes representing pieces in 5-digit packages must be listed by 5-digit ZIP Code and preceded by the abbreviation 5DG; optional city packages must be listed by the lowest assigned 5-digit ZIP Code for the city shown in Exhibit 122.63a and preceded by the abbreviation CTY; 3-digit packages must be listed by 3-digit ZIP Code and preceded by the abbreviation 3DG.

(b) *Residual/Basic Presort Tier.* Residual/basic pieces listed under the residual/basic presort tier section must be listed by 3-digit ZIP Code. It is not necessary that an identifying prefix be shown in front of the 3-digit ZIP Code prefixes of residual/basic pieces, however, if one is used it should be WKG.

c. *Basic Columns and Line Entries for Rates and Totals.* For each ZIP Code entry on the listing show:

(1) The number of ZIP+4 coded pieces under a column heading (or column headings—see 563.532d) naming the rate for which the pieces qualify based on the class of mail (see 563.1) and indicating that the pieces are ZIP+4 coded.

(2) The number of remaining pieces that are not ZIP+4 coded under a column heading (or column headings—see 563.532d) naming the rate for which the pieces qualify based on the class of mail (see 563.21) and indicating that the pieces are not ZIP+4 coded.

(3) The cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding ZIP Code entries in the applicable 3/5 presort tier or residual/basic presort tier section of the documentation) under a column heading "Cumulative Total." (The totals accumulate only for each section of the listing.)

d. Additional Columns or Line Entries.

(1) *First-Class Metered or Precanceled Stamp Mailings Containing Pieces Both Over and Under 2 Ounces.* Within the residual/basic presort tier section of the documentation for metered and precanceled stamps mailings in which postage at the exact rate is not affixed, two rate columns, one for reporting pieces weighing less than 2 ounces and one for reporting pieces weighing 2 ounces or more must be shown for each of the basic column separations described in 563.532c(1) and 563.532c(2). Each column heading must contain the name of the residual/basic rate (see 563.112) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 coded. Precanceled stamp mailings in which postage to cover additional ounce increments is not affixed must meet the additional documentation requirements in 563.532d(2).

(2) *First-Class Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34 and 581.4, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic column separations described in 563.532b(1) and 563.532b(2). Each rate column heading must show the name of the rate (see 563.112) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 coded.

(3) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within the residual/basic presort tier section of the documentation for metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter rate must be shown for each of the basic column separations described in 563.532c(1) and 563.532c(2). The column headings must contain the name of the rate (see 563.11) for which the pieces qualify, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 coded. The additional column separations in 563.532d(2) are also necessary for both

the 3/5 presort tier and the residual/basic presort tier sections for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34 or 581.4.

(4) *Second-Class Mailings Containing Both In-County and Outside-County Rate Pieces.* For second-class mailings containing both in-county and outside-county pieces, separate columns for in-county pieces and for outside-county pieces must be shown for pieces listed under 563.532c(1) and 563.532c(2). In addition, for 3-digit packages, separate columns for unique 3-digit packages that qualify for the level B3 or H3 rates, and for the level J3 rates must be shown, and separate columns for nonunique 3-digit packages that qualify for level A or G rates, and for level J1 rates must be shown, for each of the two general categories of pieces in 563.532c(1) and 563.532c(2). To reduce the number of columns across a page, mailers using the ZIP Code listing option in 563.532b(1) (ZIP Code Listings Divided into Sections by Type of Package) may break the 3-digit package section into further sections by rate category: one section for optional city and unique 3-digit packages recorded at the level B3/H3 and J3 rates, and another section for nonunique 3-digit packages at the level A/G or J1 rates. The column headings must contain the name of the rate (see 563.12) for which the pieces qualify, and a statement as to whether or not the pieces are ZIP+4 coded.

(5) *Second-Class Combined Mailings.* See 563.532f.

(6) *Third-Class Mailings Claiming Destination SCF or Destination BMC Rates.* In third-class mailings in which some combination of SCF destination entry, BMC destination entry, and no destination entry discount is claimed (that is, not all pieces in the mailing qualify for the same destination discount) the ZIP Codes on the presort tier listings that are eligible for the SCF entry discount or the BMC entry discount must be marked with an asterisk or some other unique character. If both the SCF discount and BMC discount are claimed in the same mailing, a different character from the one used to mark the ZIP Codes eligible for the SCF discount must be used to mark the ZIP Codes eligible for the BMC discount.

e. Column Totals. At the end of each section (3/5 presort tier and residual/basic presort tier) of the listing (or under each package section of the 3/5 presort tier section when the type of package option is used), show the total number of pieces listed under each rate column and under the cumulative total column.

f. Additional Requirements For Second-Class Combined Mailings. In addition to the documentation required by 564.14, second-class mailings combining pieces from more than one second-class publication or edition must provide additional information by publication or edition as required by 424.853. The additional information may be provided as a separate report or reports.

563.533 Summary Portion

a. Second-Class Mailings and Identical Weight Permit Imprint Mailings

(1) *Rate Categories and Postage Owed.* The summary must list each rate category at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. (For residual/basic mail sorted under the physical separation option in 563.33, information is also obtained from the manual counts of residual/basic pieces in the separate trays for each rate category.) When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The total number of pieces claimed at that rate.

(b) The applicable rate (amount) of postage.

(c) The postage charges for that rate category (the total number of pieces times the rate of postage).

Note: The applicable rate and postage charges are not required for second-class mailings.

(2) *Totals.*

(a) A grand total of the postage charges for all the rate entries for the entire mailing must be shown (optional for second-class mailings). This grand total is the amount of postage owed for the mailing and the amount to be deducted from the advance deposit account for permit imprint mailings, or is the amount of second-class per piece charges for the mailing prior to deductions for the nonadvertising percentage discount and zone rate discounts.

(b) The total number of pieces in the mailing that bear a ZIP+4 code, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 coded pieces in the mailing must be shown.

b. First- and Third-Class Metered and Precanceled Stamp Mailings

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portion of the documentation. For residual/basic mail sorted under the physical separation option in 563.33, information is also obtained from the manual counts of pieces in the separate trays for each rate category. For nonidentical-weight First-Class precanceled stamp mailings in which stamps to cover the additional ounces are not affixed, each rate category must be listed more than once so that there is a separate listing for each ounce increment at that rate. First-Class postcard-rate pieces must also be listed separately from letter-rate First-Class pieces. For First-Class metered mailings containing residual pieces over and under two ounces, each residual rate category must have a separate listing for pieces weighing 2 ounces or less and a separate listing for pieces weighing over 2 ounces. When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The number of pieces claimed at that rate.

(b) The amount of additional postage due for each piece at that rate (when the amount of postage affixed is less than the rate of postage owed).

(c) The postage due for pieces claimed at that rate (the total number of pieces at that rate times the amount of postage due per piece).

(2) *Totals.*

(a) A grand total of the additional postage charges due for all the rate entries for the entire mailing must be shown. This grand total is the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account.

(b) The total number of pieces in the mailing that bear a ZIP+4 code, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 coded pieces in the mailing must be shown.

563.6 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage

payment and class of mail submitted. Mailers must write "DMM 563 Presort" at the top of the mailing statement.

564 PRESORTED ZIP+4 BARCODED MAIL—TRAY-BASED PREPARATION

564.1 OPTION 1—Tray-Based (Required March 21, 1993, Optional Until Then)

564.11 Rate Eligibility

564.111 First-Class Mail

a. 5-Digit Trays. Pieces in 5-digit trays qualify for the 5-digit ZIP+4 Barcoded rate. All 5-digit trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25). All pieces in 5-digit trays must be ZIP+4 barcoded or delivery point barcoded.

b. 3-Digit and SCF Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in 3-digit and SCF trays can qualify for the 3-digit ZIP+4 Barcoded rate. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the ZIP+4 Presort rate if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the Presorted First-Class rate. In 3-digit and SCF trays there must be at least 50 pieces for each 3-digit ZIP Code destination. All 3-digit and SCF trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25), except that one less-than-full SCF tray for the SCF serving the entry post office is permitted (see 564.123d).

c. Residual Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in residual trays can qualify for the nonpresorted ZIP+4 Barcoded rate if the pieces are eligible for the card rates or the nonpresorted ZIP+4 rates if the pieces are other than cards. Residual pieces that do not bear a ZIP+4 barcode or delivery point barcode can qualify for the nonpresorted ZIP+4 rate if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the single-piece First-Class rate. Residual trays may be less than full.

564.112 Second Class Mail.

a. 5-Digit Trays. In 5-digit trays, each piece can qualify for the level B5/H5/J5 ZIP+4 Barcoded rates. All 5-digit trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25). All pieces in 5-digit trays must be ZIP+4 barcoded or delivery point barcoded.

b. Optional City Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in trays for an optional city listed in Exhibit 122.63a can qualify for the level B3/H3/J3 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level B3/H3/J3 ZIP+4 rate if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level B3/H3/J3 presort rates. Optional city trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

c. 3-Digit Trays.

(1) *Unique 3-Digit Trays.* Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in unique 3-digit trays can qualify for the level B3/H3/J3 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level B3/H3/J3 ZIP+4 rates if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level B3/H3/J3 presort rates. Unique 3-digit trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

(2) *Nonunique 3-Digit Trays.* Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in nonunique 3-digit trays can qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level A/G/J1 presort rates. All 3-digit trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25).

d. SCF and Residual/Basic Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in SCF or residual/basic trays can qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the level A/G/J1 ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the level A/G/J1 presort rates. All SCF trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25), except that one less-than-full SCF tray for the SCF serving the entry post office is permitted (see 564.123d). Residual/basic trays (which contain pieces remaining after filling SCF trays) may be less than full.

564.113 Third Class Mail.

a. 5-Digit Trays. Pieces in 5-digit trays qualify for the 5-digit ZIP+4 Barcoded rate. All 5-digit trays must be full trays (as defined in 561.24) or overflow trays (as defined in 561.25). All pieces in 5-digit trays must be ZIP+4 barcoded or delivery point barcoded.

b. 3 Digit and SCF Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in 3-digit and SCF trays can qualify for the 3-digit ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the 3/5 ZIP+4 rates if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the 3/5 presort rate. Both 3-digit and SCF trays must be full trays (as defined in 561.43) or overflow trays (as defined in 561.44), except that one less-than-full SCF tray for the SCF serving the entry post office is permitted (see 564.123d).

c. Residual/Basic Trays. Pieces that bear the correct ZIP+4 barcode or correct delivery point barcode in residual/basic trays can qualify for the basic ZIP+4 Barcoded rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the basic ZIP+4 rates if they bear a correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces qualify for the basic presort rates. Residual/basic trays (containing pieces remaining after filling SCF trays) may be less than full.

564.12 Sortation.

564.121 General Preparation. Pieces must be sorted to full trays as described in 564.123 in the following sequence: 5-digit, optional city (second-class only), 3-digit, and SCF. Preparation of 5-digit trays is optional, however only ZIP+4 barcoded or delivery point barcoded pieces in full 5-digit trays can qualify for the 5-digit ZIP + 4 Barcoded rates. One overflow tray that is less than full is also permitted for any tray destination for which at least one full tray has been prepared (see 561.25). Pieces remaining after sortation to these tray levels are residual/basic pieces and must be prepared as described in 564.124. The general traying requirements in 561.2 must be met. Pieces in certain types of trays must be grouped by ZIP Code, or packaged, or both as described in 561.122 for destination trays, and as described in 561.124 for residual/basic trays.

564.122 Grouping and/Packaging Within Destination Trays.

a. Grouping. There are no requirements to group pieces by ZIP Code within 5-digit, optional city, or 3-digit trays. Within SCF trays, pieces for the same 3-digit ZIP Code must be grouped together in the trays. It is recommended, but not required, that the groups of pieces for the same 3-digit ZIP Code area be placed in SCF trays in ascending numeric sequence (for example, pieces for 023 would be placed in an SCF tray in front of pieces for 024). In First-Class mailings, pieces in 3-digit

and SCF trays must be part of a group of at least 50 pieces for the same 3-digit ZIP Code area. It is recommended that all the First-Class pieces in the group of 50 or more pieces for the same 3-digit area be placed in the same tray. However, when all the First-Class pieces cannot be placed in the same full tray, the remaining pieces in the group of 50 or more for that 3-digit ZIP Code area may be placed in an overflow tray to the same destination, or in a tray to the next level of sortation.

b. Packaging.

(1) *Full Trays.* Neither packaging nor use of separator cards is permitted within mailings of any class that contain pieces that are larger than postcard-size dimensions (4¼ inches high, 6 inches long, and .0095 inch thick) within full 5-digit, optional city (second-class only), 3-digit, and SCF trays. Within mailings that consist entirely of postcard-size pieces, the pieces must be secured into packages as described in 561.11, to maintain their orientation within the trays during transit. No package labels are required for this packaging.

Exception: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. Packaging is therefore permitted until March 21, 1993 for mailings of pieces that are wider than standard MM trays that are prepared in accordance with 561.23.

(2) *Overflow Trays.* Pieces in overflow trays to any tray destination must be secured into packages as described in 561.11 to maintain their orientation within the tray during transit. All packages in overflow trays must be labeled as described in 561.131. Packages in 5-digit overflow trays must be labeled as 5 digit packages. Packages in second-class optional city trays must be labeled as optional city packages. Pieces in 3-digit and SCF overflow trays must be packaged by 3-digit ZIP Code area and labeled as 3-digit packages.

564.123 Tray Sortation—⅜ Presort Tier.

a. Optional 5-Digit Trays. When there are enough ZIP+4 barcoded or delivery point barcoded pieces to the same 5-digit destination to fill a tray, a 5-digit tray may be prepared for that destination. Less-than-full trays are not permitted, except one overflow tray per 5-digit ZIP Code area is permitted as provided in 561.25. Full and overflow 5-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

DETROIT MI—48235
FCM LTRS BARCODED
NB COMPANY UNION SC

(2) *Military Mail.*

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPS 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

APO AE—09128
FCM LTRS BARCODED
NB COMPANY UNION SC

Note: 5-digit trays are required only if the mailer wants to qualify pieces for the 5-digit ZIP+4 Barcoded rates. Since these trays are optional, mailers may choose to prepare 5-digit trays for only one 5-digit ZIP Code area or for only some 5-digit ZIP Code areas, or may choose to prepare all possible 5-digit trays. If a 5-digit tray is prepared, however, it must be a full tray or overflow from a full tray as defined in 561.24 and 561.25.

b. Second-Class Optional City Trays. After preparing any full 5-digit trays, and at the mailers option, overflow 5-digit trays, second-class mailers may prepare optional city trays for the multi-ZIP coded cities listed in Exhibit 122.63a. Less-than-full trays are not permitted except one overflow tray per optional city is permitted as provided in 561.25. Full and overflow optional city trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by the city.

Line 2: Contents (2C or NEWS) followed by "LTRS BARCODED" and directly under the ZIP Code on Line 1, "CITY".

Line 3: Mailer information (see 561.273b(3)).

Example

LA JOLLA CA—92037
2C LTRS BARCODED—CITY
HARD TIMES NEWS UNION SC

c. 3-Digit Trays. After preparing any full 5-digit trays, any full optional city trays (second-class mailings only), and at the mailer's option, overflow trays to those destinations, if there are enough pieces to fill a tray for a 3-digit ZIP code destination, a 3-digit tray must be prepared. (For First-Class Mail, there must be at least 50 pieces for each 3-digit ZIP Code area. See 564.122.) Less-than-full trays are not permitted, except one overflow tray per 3-digit ZIP Code area is permitted as provided in 561.25. Full and overflow 3-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3-Digit ZIP Code Prefixes.*

Line 1: City, two-letter state abbreviation, and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

KNOXVILLE TN—379
FCM LTRS BARCODED
LMM COMPANY FAIRFAX VA

(b) *Other 3-Digit ZIP Code Prefixes.*

Line 1: Name of the SCF (letters "SCF" omitted) and the two-letter state abbreviation of the SCF, followed by the 3-digit prefix of the pieces contained in the tray (See Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

WATERLOO IA—506
FCM LTRS BARCODED
XYZ CORP ROCHESTER NY

(2) *Military Mail.*

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

FPO AE—095
FCM LTRS BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3 digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

d. SCF Trays. After preparing any full 5-digit trays, any full optional city trays (if applicable, for second-class mailings only), all possible full 3-digit trays, and at the mailer's option, overflow trays to

those destinations, if there are enough pieces for one of the SCFs listed in Exhibit 122.63d to fill a tray, an SCF tray for that destination must be prepared. Less-than-full trays are not permitted, except that one overflow tray per SCF area is permitted as provided in 561.25, and one less-than-full tray for the SCF serving the post office where the mailing is entered is permitted. (For First-Class Mail there must be at least 50 pieces for each 3-digit ZIP Code area as provided in 564.122a. For all classes of mail, the pieces must be grouped by 3-digit area within each SCF tray. See 564.122.) Full SCF trays and overflow SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation, and 3-digit ZIP Code prefix for the SCF shown in Exhibit 122.63d

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED"

Line 3: Mailer information (see 561.273b(3))

Example:

SCF SAN ANTONIO TX—780
3C LTRS BARCODED
NBT CO BAKERSFIELD CA

Note: Where there is no SCF listed for a given 3-digit area in Exhibit 122.63d (such as military mail and the Virgin Islands) mailers must place such pieces in a tray labeled on the top line in accordance with Exhibit 122.63t, when a full tray can be prepared in accordance with 122.63t. The second and third lines of tray labels for such trays are the same as those for SCF trays described above. Pieces in such trays are not eligible for SCF entry discounts.

564.24 Tray Preparation—Residual/Basic Portion

a. General. Residual/basic pieces are those that cannot be trayed in accordance with 564.123a through 564.123d. Residual/basic pieces must be placed in trays that are separate from trays of pieces to destination sorts. The traying requirements of 561.2 must be met. The pieces in residual/basic trays must be prepared under either 564.124b or 564.124c below. Once the basic requirements in 564.124b or 564.124c are met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy.*

b. Option 1: ZIP Code Sequencing and Listing. Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. If the last tray is less than full, the pieces in the tray must be secured into and labeled as 3-digit packages under 561.11 and 561.131. In addition, full trays of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into and labeled as 3-digit packages under 561.11 and 561.131. Mailers must provide a listing by 3-digit ZIP Code area of the various rate qualification categories as described in 564.14. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, separate residual/basic trays must be prepared for the ZIP Code areas eligible for the destination BMC rate as provided in 624.722. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG"

Line 3: Mailer information (see 561.273b(3))

Example:

DIS WILKES BARRE PA—186
FCM LTRS BARCODED WKG
EXETER CO DUPONT PA

c. Option 2: Physical Separation by Rate Qualification.

(1) *Basic Tray Separations.* Residual/basic pieces bearing correct ZIP+4 barcodes or delivery point barcodes must be separately trayed from residual/basic pieces that do not. Pieces not bearing ZIP+4 barcodes or delivery point barcodes must be further separated so that pieces bearing a correct (see 530) numeric ZIP+4 code in the address and meeting the requirements of 540 are separately trayed from other pieces. The trays must be physically grouped according to these separations when presented to the post office for verification.

(2) *Additional Tray Separations*

(a) *First-Class Nonidentical-Weight Metered or Precanceled Stamp Mailings.* There is a different first ounce rate for pieces weighing over 2 ounces in First-Class Mail. Accordingly, in nonidentical-weight First-Class metered or precanceled stamp mailings in which there are both pieces weighing 2 ounces or less and pieces weighing over 2 ounces, and postage at the exact rate is not affixed to each piece, further tray separations must be made by pieces weighing over 2 ounces and pieces weighing 2 ounces or less for each of the three basic separations required in 564.124c(1). The trays must be physically grouped according to these separations when presented to the post office for verification. Precanceled stamp mailings must meet the tray separation requirements in 564.124c(2)(b) when postage to cover additional ounce increments is not affixed to each piece as permitted under 581.34 or 581.4.

(b) *First-Class Nonidentical Weight Precanceled Stamp Mailings in which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed under 581.34 or 581.4, further tray separations must be made by pieces of each ounce increment in the mailing for each of the three basic separations required in 564.124c(1). The trays must be physically grouped according to these separations when presented to the post office for verification.

(c) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* For metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, pieces weighing one ounce or less must be further separated so that postcard rate pieces are separately trayed from letter-rate pieces for each of the three basic separations required in 564.124c(1). The additional tray separations in 564.124c(2)(b) may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

(d) *Second-Class Mailings Containing In-County and Outside County Pieces.* Within second-class mailings containing both in-county and outside-county pieces, in-county pieces must be separately trayed from outside-county pieces for each of the three basic tray separations required in 564.124c(1) above. The trays must be physically grouped according to these separations when presented to the post office for verification.

(e) *Third-Class Mailings Claiming Destination BMC Rates.* In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, further tray separations by pieces within the BMC service area and pieces outside the BMC service area must be made for

each of the three basic separations required in 564.124c(1).

(3) *Separation Into Groups of 100 Pieces Within Each Tray.* Within each of the trays resulting from sortation in accordance with 564.124c(1) and 564.124c(2), the pieces must be separated into groups of 100 pieces. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of residual/basic trays, the actual number of pieces in the group must be written on the separator card. The total number of residual/basic pieces in each rate category must be added to the summary portion of the documentation required in 564.146.

(4) *Tray Labels.* Option 2 residual/basic trays must be labeled as follows:

(a) *Trays Containing ZIP+4 Barcoded or Delivery Point Barcoded Pieces*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
FCM LTRS BARCODED WKG
EXETER CO DUPONT PA

(b) *Trays Containing Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded Bearing Correct Numeric ZIP+4 Code in Address and Meeting Requirements of 540*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" (or "ZIP+4 WKG").

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
FCM LTRS ZIP+4 WORKING
EXETER CO DUPONT PA

(c) *Trays Containing Other Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C LTRS) followed by "WORKING" (or "WKG").

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
3C LTRS WORKING
COAL CO DUPONT PA

564.13 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 564.1 Presort" at the top of the mailing statement.

564.14 Documentation

564.141 Purpose. Documentation enables the Postal Service to verify the percentage of ZIP+4 barcoded pieces or delivery point barcoded pieces in the mailing. It also enables the Postal Service to verify the number of pieces claimed at each rate category on the mailing statement, and to verify that any difference between the amount of postage affixed to the pieces in the mailing, and the amount of postage owed for the pieces is paid. It does this by providing the Postal Service with a detailed description of what is being mailed, how it is prepared, the rate for which pieces qualify, and how many pieces have a ZIP+4 barcode or delivery point barcode. The USPS will compare the numbers shown on the mailer's documentation with counts of samples taken from the actual mailing to confirm that the information on the documentation is accurate.

Note: For second-class mailings, the documentation described in this section will provide the presort per piece rate documentation and the 85% ZIP+4 barcoded or delivery point barcoded documentation required in 424.841 and 424.843. Documentation in addition to the documentation described in 564.14 must be prepared for mailings of second-class publications as set forth in 424.84.

564.142 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 564.143 with the following exceptions:

a. No documentation is required (other than a listing of overflow trays if applicable as required in 561.25) when every piece in the mailing bears the correct ZIP+4 barcode or correct delivery point barcode and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 Barcoded rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

564.143 Heading and General Format Requirements. The top of the first page of the documentation must show the class of mail and the words "DMM 564.1 Presort". The words "ZIP Code Option" or "Tray Label Option" must also appear at the top of the first page of the documentation to indicate whether the listing option in 564.144b(1) or 564.144b(2) is used. When only some pieces in a third-class mailing qualify for a destination entry rate, or when a mailing contains pieces that qualify for more than one destination entry rate, a description of the characters used within the listing portion of the documentation to identify the ZIP Codes qualifying for each destination entry discount must also appear at the top of the first page (see 564.144d(6)). The documentation must consist of a listing portion (564.144) and a summary portion (564.145). It is recommended that one of the formats in Exhibit 564.144b(1) or 564.144b(2) be used. If another format is used, it must allow Postal Service verification personnel to easily determine the information required by 564.144 and 564.145 using a single report. See 564.144f for an exception to the single report requirement for second-class mailings containing more than one edition and/or publication. Information that could not pertain to the class being mailed (such as column headings for Level A, Level B, Level J rates in a third-class mailing) must not be included in the documentation.

564.144 Required Information—Listing Portion

a. Tray Sortation Level Sections. The listing portion of the documentation

must be divided into sections by level of tray sortation in the following order: 5-digit trays; second-class optional city trays (if applicable); 3-digit trays; SCF trays; and residual/basic trays (for mailings with residual/basic pieces prepared under 564.124b sequencing and listing). Each section must be preceded by a heading describing its contents (i.e., "5-Digit Trays," "Optional City Trays," "3-Digit Trays," "SCF Trays," and "Residual/Basic Trays").

b. Tray Label and/or ZIP Code Column(s). Within each tray sortation level section, all tray destinations in the mailing for that type of tray must be listed. The tray destinations must be listed either by ZIP Code alone as described in 564.144b(1) (ZIP Code Option), or by both the exact tray label (or tray number) and ZIP Code as described in 564.144b(2) (Tray Label Option).

(1) *ZIP Code Option.* For each tray sortation level section in the mailing, list the ZIP Code(s) contained in all trays to that level of sortation under a column heading "ZIP Code." The ZIP Codes within each section must be listed in ascending numeric order by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for second-class optional city trays (see Exhibit 122.63a), and by 3-digit ZIP Code for the 3-digit, SCF, and residual/basic trays (residual/basic trays for mailings prepared under the ZIP Code sequencing and listing Option in 564.124b). For example, two full 5-digit trays and one overflow 5-digit tray for ZIP Code 22033 would be listed under a single entry "22033" under the 5-digit tray sortation level section. (The destination 22033 would also have to appear on the separate overflow tray listing—see 561.25.)

(2) *Tray Label Option*

(a) *Tray Label Column.* Within each tray sortation level section, list all trays in the mailing that are sorted to that tray sortation level. The trays must be listed either by a unique tray number that appears on the tray label, or by the exact top line of the tray label. For example two full 5-digit trays and one overflow 5-digit tray for ZIP Code 22030 would be listed on three separate lines either by individual tray numbers (such as 010, 011, and 012) or by the top line of the each tray label (such as Fairfax VA 22030, Fairfax VA 22030, and Fairfax VA 22030). The tray listings must appear under a column heading "Tray Number" or "Tray Label," as applicable. If unique tray numbers are used, the trays must be listed in ascending numerical order by tray number within each tray sortation level section. If the exact top line of tray labels is used, the trays must be listed in ascending numerical order by the ZIP Code shown on the tray label within each tray sortation level section. The ZIP Codes in each tray must also be listed in a separate column as described in 564.144b(2)(b) below.

(b) *ZIP Code Column.* For each tray in the mailing, the ZIP Codes contained in the tray must be listed under a column heading "ZIP Code." The ZIP Codes must be listed in ascending numeric order by 5-digit ZIP Code for 5-digit trays, by lowest assigned 5-digit ZIP Code for second-class optional city trays as listed in Exhibit 122.63a, and by 3-digit Zip Code for 3-digit, SCF, and residual/basic trays (residual/basic trays for mailings prepared under the ZIP Code sequencing and listing option in 564.124b).

c. Basic Columns and Line Entries for Rates and Totals. For each ZIP Code entry listed under either the ZIP Code option or the tray label option, the documentation must show:

(1) The number of ZIP+4 barcoded or delivery point barcoded pieces under a column heading (or column headings—see 564.144d) naming the rate for which the pieces qualify based on the class of mail (see 564.11) and indicating that the pieces are ZIP+4 barcoded or delivery point barcoded.

(2) The number of non-ZIP+4 barcoded or non-delivery point barcoded pieces with a correct numeric ZIP+4 code (see 530) in the address and meeting the requirements of 540, under a column heading (or column headings—see 564.144d) naming the rate for which the pieces qualify based on the class of mail (see 564.11) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. The documentation does not need to contain a column for these pieces if none appear in a mailing, or if the ZIP+4 rates are not claimed for such pieces. These pieces are not permitted in 5-digit trays.

(3) The number of remaining pieces that are not ZIP+4 barcoded, delivery point barcoded, or numerically ZIP+4 coded under a column heading (or column headings—see 564.144d) naming the rate for which the pieces qualify based on the class of mail (see 564.11) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. (This column includes pieces with a 5-digit numeric ZIP Code as well as pieces without a ZIP+4 barcode or delivery point barcode that contain a correct numeric ZIP+4 code, but do not meet the OCR processing requirements in 540. It also includes pieces without a ZIP+4 barcode or delivery point barcode that contain a numeric ZIP+4 code not matched against CASS certified software in accordance with 530.) These pieces are not permitted in 5-digit trays.

(4) The cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding ZIP Code entries within the same tray level section of the documentation) under a column heading "Cumulative Total." (The totals accumulate for each tray level section only.)

d. Additional Rate Columns or Line Entries

(1) *First-Class Metered or Precanceled Stamp Mailings Containing Pieces Both Over and Under 2 Ounces.* Within the residual/basic tray section of the documentation for metered and precanceled stamps mailings in which postage at the exact rate is not affixed, two rate columns, one for reporting pieces weighing less than 2 ounces and one for reporting pieces weighing 2 ounces or more must be shown for each of the basic column separations described in 564.144c. Each column heading must contain the name of the residual/basic rate (see 564.111c) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. Precanceled stamp mailings in which postage to cover additional ounce increments is not affixed must meet the additional documentation requirements in 564.144d(2) below.

(2) *First-Class Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34 or 581.4, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic column separations described in 564.144c. Each rate column heading must show the name of the rate (see 564.111) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded.

(3) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within the residual/basic tray section of the documentation for metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter

rate must be shown for each of the basic column separations described in 564.144c. The column headings must contain the name of the rate (see 564.111) for which the pieces qualify, the weight category, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. The additional column separations in 564.144d(2) are also necessary for all tray sortation sections of the documentation for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34 or 581.4.

(4) *Optional Column Listings for Second-Class Mailings Containing Both In-County and Outside-County Rate Pieces.* For second-class mailings containing both in-county and outside-county pieces, separate columns for in-county pieces and for outside-county pieces must be shown for pieces listed under 564.144c(1), 564.144c(2) and 564.144c(3) for each tray level section. In addition, for 3-digit trays, separate columns for unique 3-digit trays that qualify for the level B3 or H3 rates, and for the level J3 rates must be shown, and separate columns for non-unique 3-digit trays that qualify for level A or G rates, and for level J1 rates must be shown, for each of the three general categories of pieces in 564.144c(1), 564.144c(2), and 564.144c(3). (Up to twelve rate column headings showing applicable rate categories are possible in the 3-digit tray portion.) To reduce the number of columns across a page, mailers may break the 3-digit tray portion of the documentation into sections by rate category: section 1 for optional city and unique 3-digit trays recorded at the level B3/H3 and J3 rates, and section 2 for nonunique 3-digit trays at the level A/G or J1 rates. The column headings must contain the name of the rate (see 564.112) for which the pieces qualify, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. Only two rate columns are possible within the 5-digit tray section of the listing, since only ZIP+4 barcoded or delivery point barcoded pieces are permitted in these trays.

(5) *Second-Class Combined Mailings.* See 564.144f.

(6) *Third-Class Mailings Claiming Destination SCF or Destination BMC Rates.* In third-class mailings in which some combination of SCF destination entry, BMC destination entry, and no destination entry discount is claimed (that is, not all pieces in the mailing qualify for the same destination discount) the ZIP Codes on the listing that are eligible for the SCF entry discount or the BMC entry discount must be marked with an asterisk or some other unique character. If both the SCF discount and BMC discount are claimed in the same mailing, a different character from the one used to mark the ZIP Codes eligible for the SCF discount must be used to mark the ZIP Codes eligible for the BMC discount.

e. Section Column Totals. At the end of each tray level section in the listing, show the total number of pieces listed under each rate and total column.

f. Additional Requirements For Second-Class Combined Mailings. In addition to the documentation required by 564.14, second-class mailings combining pieces from more than one second-class publication or edition must provide additional information by publication or edition as required by 424.853. This additional information may be provided as a separate report or reports.

564.145 Summary Portion

a. Second-Class Mailings and Identical-Weight Permit Imprint Mailings

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. (For residual/basic mail sorted under the physical separation option in 564.124c, information is also obtained from the manual counts of residual/basic pieces in the separate trays for each rate category.) When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The total number of pieces claimed at that rate.

(b) The applicable rate (amount) of postage.

(c) The postage charges for that rate category (the total number of pieces times the amount of postage).

Note: The applicable rate amount and postage charges are not required for second-class mailings.

(2) *Totals*

(a) A grand total of the postage charges for all the rate entries for the entire mailing must be shown (optional for second-class mailings). This grand total is the amount of postage owed for the mailing and the amount to be deducted from the advance deposit account for permit imprint mailings, or is the amount of second-class per piece charges for the mailing prior to deductions for the nonadvertising percentage discount and zone rate discounts.

(b) The total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

(d) The summary may also include the listing of overflow trays required by 561.25, if applicable.

b. First- and Third-Class Metered and Precanceled Stamp Mailings

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portion of the documentation. For residual/basic mail sorted under the physical separation option in 564.124c, information is also obtained from the manual counts of pieces in the separate trays for each rate category. For nonidentical-weight First-Class precanceled stamp mailings in which stamps to cover the additional ounces are not affixed, each rate category must be listed more than once so that there is a separate listing for each ounce increment at that rate. For First-Class metered mailings containing residual pieces over and under two ounces, each residual rate category must have a separate listing for pieces weighing 2 ounces or less and a separate listing for pieces weighing over 2 ounces. First-Class postcard rate pieces must also be listed separately from letter-rate First-Class pieces. When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The number of pieces claimed at that rate.

(b) The amount of additional postage due for each piece at that rate (when the amount of postage affixed is less than the rate of postage owed).

(c) The postage due for pieces claimed at that rate (the total number of pieces at that rate times the amount of postage due per piece).

(2) *Totals*

(a) A grand total of the additional postage charges due for all the rate entries for the entire mailing must be shown. This grand total is the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account.

(b) The total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

(d) The summary may also include the listing of overflow trays required by 561.44, if applicable.

564.2 OPTION 2—Tray-Based Presorted ZIP+4 Barcoded Mail (Available Through March 20, 1993)

564.2 Requirements

564.21 [Reserved]

564.22 Rate Eligibility. [Insert current 563.22. Change the references "561.43" to "561.24." Change the references "561.44" to "561.25."]

564.23 Sortation

564.231 ZIP Code Grouping and Packaging Requirements—Qualifying Portion. [Insert current 563.231. Change all references "561.422" to 561.232". "Change the reference "(see 563.232b(1), 563.232b(2) and 563.233)" in the note under renumbered 564.231a(1) to "(see 564.232b(1), 564.232b(2) and 564.232b(3))." Change all references "561.22" to "561.11 and 561.131". Change the reference "563.232b(3)" to "564.232b(4)". Change the reference "561.44" to 561."25".]

564.232 Tray Sortation—Qualifying Portion

a. General. The requirements in 561.2 must be met.

b. Sortation

(1) 5-Digit Trays. [Insert current 563.232b(1). Change the label information and add a note to the end of this section as follows:

(a) *Nonmilitary Mail.*

[Insert current label information from 563.232b(1)].

(b) *Military Mail.*

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes (090–098), AA (for ZIPs 340), or AP (for ZIPs 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "Z+4 BARCODED" or "Z+4 B/C".

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location.

Example

APO AE—09128
FCM ZIP+4 BARCODED
NB COMPANY UNION SC

Note: 5-digit trays are required only if the mailer wants to qualify pieces for the 5-digit ZIP+4 Barcoded rates. Since these trays are optional, mailers may choose to prepare 5-digit trays for only one 5-digit ZIP Code area, or for only some 5-digit ZIP Code areas, or may choose to prepare all possible 5-digit trays. If a 5-digit tray is prepared, however, it must be a full tray or overflow from a full tray as defined in 561.24 and 561.25.

(2) Optional City Trays (Second-Class Only). [Insert current 563.233b. Change the reference "561.44" to "561.25".]

(3) 3-Digit Trays. [Revise the first sentence to read as follows: "After preparing any full 5-digit trays, any full optional city trays (if applicable, for second-class mailings only), and at the mailer's option, overflow trays to those destinations, if there are enough pieces to fill a tray for a 3-digit ZIP Code destination, a 3-digit tray must be prepared." Change the reference "561.44" to "561.25". Change the reference "563.231a(1)" to "564.231a(1)". Omit the following two sentences: "Within mailings in which the First- or third-class 5-digit ZIP+4 Barcoded rates or second-class level B5/H5/J5 rates are claimed, 3-digit trays may be prepared only after all possible 5-digit trays have been prepared. In second-class mailings the mailer may elect to prepare optional city trays to obtain the level B3/H3/J3 ZIP+4 Barcoded rates (see 563.233); if so, optional city trays must be prepared before preparing 3-digit trays." Add following qualifier to existing tray label information and add new tray label information for military mail as follows:

(a) *Nonmilitary Mail.*

(i) *Unique 3-Digit ZIP Code Prefixes.*

[Insert label information in current 563.232b(2)(a).]

(ii) *Other 3-Digit ZIP Code Prefixes.*

[Insert label information in current 563.232b(2)(b).]

(b) *Military Mail.*

Line 1: "APO" or "FPO", followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 BARCODED" or "Z+4 B/C".

Line 3: Name of mailer and city and two-letter state abbreviation of mailer's location.

Example

FPO AE—095
FCM ZIP+4 BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

(4) SCF Trays. [Insert current 563.232b(3). Change the references "563.232b(1)" to "564.232b(1)". Change all references "563.233" to "564.232b(2)". Change all references "563.232b(2)" to "564.232b(3)". Revise the sentence "SCF trays that are not full are prohibited, except for overflow trays as provided in 561.44" to read "Less-than-full SCF trays are not permitted, except that one overflow tray per SCF area is permitted as provided in 561.25, and one less-than-full tray for the SCF serving the post office where the mailing is entered is permitted". Add the following note after the label information:

Note: When there is no SCF listed for a given 3-digit area in Exhibit 122.63d, (such as military mail and the Virgin Islands) mailers must place such pieces in a tray labeled on the top line in accordance with Exhibit 122.63t, when a full tray can be prepared in accordance with 122.63t. The second and third lines of tray labels for such trays are the same as those for SCF trays described above. Pieces in such trays are not eligible for SCF entry discounts.

564.233 Sortation Requirements—Residual/Basic Portion

a. General. Residual/basic pieces are those that cannot be trayed as required by 564.232. Residual/basic pieces must be placed in trays that are separate from trays of qualifying pieces. The traying requirements of 561.2 must be met. The pieces in residual/basic trays must be prepared under 564.233b or 564.233c. Once the basic requirements in 564.233b or 564.233c have been met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy.*

b. Option 1: ZIP Code Sequencing and Listing. [Insert current 563.232c(1). Replace the first sentence with the following: "Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-

digit ZIP Code sequence." Change the reference "563.242" to "564.53 (see also 564.1)".]

c. Option 2: Physical Separation. [Insert current 563.232c(2). Add the following as the third sentence: "Additional tray separations may be required as set forth in 564.124c(2) to accurately account for postage. Change the reference "561.221" to "561.11". Change the reference "563.242" to 564.242".]

564.24 Documentation

564.241 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 564.242, with the following exceptions:

a. No documentation is required (other than a listing of overflow trays if applicable as required in 561.25) when every piece in the mailing bears the correct ZIP+4 barcode or correct delivery point barcode and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 Barcoded rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

564.242 Information Required

a. Tray Label Option

(1) *Sequence.* [Insert current 563.242a(1). Change the reference "563.232c(1)" to "564.233b".]

(2) *Information.* [Insert current 563.242a(2). Add the following as the second sentence: "See 564.144d and 564.144f for additional columns that may be required to account for pieces qualifying for each rate category." Change the reference "563.232c(1)" to "564.233b".]

(3) *Summary.* [Insert current 563.242a(3). Change the reference "563.232c(2)" to "564.233b". Change the reference "561.44" to "561.25."]

[Delete current 563.242a(4).]

b. ZIP Code Option

(1) *Sequence.* [Insert current 563.242b(1). Change the reference "563.232c(2)" to "564.233b".]

(2) *Information.* [Insert current 563.242b(2). Add the following as the last sentence: "See 564.144d and 564.144f for additional columns that may be required to account for pieces qualifying for each rate category."]

(3) *Summary.* [Insert current 563.242b(3). Change the reference "563.232c(2)" to "564.233b". Change the reference "561.44" to "561.25."]

[Delete current 563.242b(4).]

564.25 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 564.2 Presort" at the top of the mailing statement.

565 Two-Tier Package-Based Presorted ZIP+4 Barcoded Rate Mailings

565.1 General Description and Requirements. A two-tier ZIP+4 Barcoded rate mailing prepared under 565 is made up of two presort tiers: a 3/5 Presort tier that contains 5-digit and 3-digit packages; and a residual/basic presort tier (remaining pieces). All pieces within 5-digit packages must contain the correct ZIP+4 or delivery point barcode. 5-digit packages may be made at the mailer's option whenever there are 10 or more ZIP+4 or delivery point barcoded pieces for the same 5-digit ZIP Code area. After making any 5-digit packages, any groups of 50 or more pieces for the same 3-digit ZIP Code area that remain must be prepared into 3-digit packages. The 5-digit packages and the 3-digit packages must then be trayed in accordance with 565.32 (5-digit packages and 3-digit packages are placed in the same 3-digit of SCF trays). For second-class mailings, optional city packages of 50 or more pieces may also be made, at the mailer's option, and on a selected basis, prior to preparing 3-digit packages. Remaining pieces must be prepared as residual/basic mail as described in 565.4. A mailing containing only a residual/basic presort tier is not permitted unless there are no groups of 50 or more pieces for the same 3-digit ZIP Code area within the mailing. Rates for pieces in the mailing are based upon the type of package and presort tier in which they are placed. See 565.2 for a detailed description of the rates for which pieces in each type of package or presort tier can qualify. A single mailing may, at the mailer's option:

a. Include 5-digit and 3-digit packages in the 3/5 presort tier, and a residual/basic tier.

b. Contain only 3-digit packages in the 3/5 presort tier, and a residual/basic tier;

c. Contain only 5-digit packages in a 3/5 presort tier;

d. (First-Class Mailings Only) contain only 5-digit packages in the 3/5 presort tier and a residual/basic tier;

e. (First-Class Mailings Only) contain only a residual/basic tier.

f. (Second- and third-class mailings) contain only a residual/basic tier under the limited conditions in 565.122a.

565.12 Hierarchy of Presort

565.121 Mailings Containing 5-Digit and 3-Digit Packages in the 3/5 Presort Tier. Since 5-digit packages in the 3/5 presort tier must be prepared only if 5-digit ZIP+4 Barcoded rates are claimed, mailers need not prepare all possible 5-digit packages in the 3/5-digit presort tier before going on to prepare 3-digit packages. Mailers may prepare 5-digit packages to only selected 5-digit ZIP Code areas. When a mailing contains 5-digit packages for a ZIP Code area, not all pieces for that ZIP Code area are required to be placed in 5-digit packages in the 3/5-digit presort tier. The mailer may elect to place some pieces for that 5-digit ZIP Code area in 3-digit packages in the 3/5 presort tier and pay a higher rate. In all cases, however, each 5-digit package must contain at least 10 ZIP+4 barcoded or delivery point barcoded pieces (see 565.311 and 515.32).

Example: A mailing contains 150 pieces for ZIP Code 22033, of which 135 are delivery point barcoded, and 15 are not barcoded but contain a 5-digit ZIP Code. The same mailing contains 30 pieces (28 delivery point barcoded and 2 nonbarcoded with a 5-digit ZIP Code) for other ZIP Codes with a 220 ZIP Code prefix. The mailer elects to prepare 5-digit packages to 22033. The 15 pieces to 22033 that do not contain a barcode cannot be included in the 5-digit packages and are identified for possible inclusion in a 3-digit package. These 15 pieces, when added to the 30 pieces for other ZIP Codes within 220, equal 45 pieces for the 3-digit area 220. Since 50 pieces are needed to make up a 3-digit package, the mailer may elect to take 5 pieces from 22033 and place them as part of a 3-digit package. This will result in a total of 130 pieces for 22033 in 5-digit packages and 50 pieces for 220 in 3-digit packages within the 3/5 presort tier.

565.122 Restrictions on Mailings Containing Only a Residual/basic Presort Tier

a. Second- and Third-Class Mailings. Within second- and third-class

packaged-based mailings, all possible 3-digit packages of 50 or more pieces to the same 3-digit area must be prepared and placed in the 3-digit presort tier, before the residual/basic tier is prepared. (Mailers may also prepare 5-digit packages, and, for second-class mail only, optional city packages, before preparing 3-digit packages.) The only instance in which a residual/basic tier may be submitted by itself as a second- or third-class package-based mailing is if the mailer attempts to perform 3-digit package sortations, but there are no groups of 50 or more pieces for any 3-digit ZIP Code area in the mailing.

b. First Class Mailings. Since the residual portion of a First-Class mailing is paid for at single-piece rates, mailers are not required to prepare all possible 3-digit packages of 50 or more pieces to the same 3-digit area and tray them under the requirements for the 3/5 presort tier before preparing the residual tier. That is, the residual portion of a First-Class mailing may contain groups of 50 or more pieces for the same 3-digit ZIP Code area.

565.2 Rate Eligibility

565.21 First-Class Mail

565.211 5-Digit Packages. Pieces in 5-Digit packages prepared under 565.3 can qualify for the 5-Digit ZIP+4 Barcoded rates. Only pieces bearing a correct ZIP+4 barcode or correct delivery point barcode may be included in 5-Digit packages.

565.212 3-Digit Packages. Pieces within 3-Digit packages prepared under 565.3 that bear a ZIP+4 barcode or delivery point barcode can qualify for the 3-Digit ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the ZIP+4 Presort rates. Other pieces qualify for the Presorted First-Class rates.

565.213 Residual Pieces. Pieces that bear a correct ZIP+4 barcode or delivery point barcode in the residual portion of the mailing prepared under 565.4 can qualify for the nonpresorted ZIP+4 Barcoded rates if they also meet the requirements for the card rates (see 311.11, 322, and 515.512), otherwise they can qualify for the nonpresorted ZIP+4 rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the nonpresorted ZIP+4 rate. Other pieces qualify for the single-piece First-Class rates.

565.22 Second-Class Mail

565.221 5-Digit Packages. All pieces in 5-Digit packages prepared under 565.3 can qualify for the level B5/H5/J5 ZIP+4 Barcoded rates. Only pieces bearing a correct ZIP+4 barcode or correct delivery point barcode may be included in 5-Digit packages.

565.222 Optional City Packages. Pieces within optional city packages prepared under 565.3 that bear a ZIP+4 barcode or delivery point barcode can qualify for the B3/H3/J3 ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the B3/H3/J3 ZIP+4 rates. Other pieces qualify for the B3/H3/J3 presort rates.

565.223 3-Digit Packages

a. Unique 3-Digit Packages. Pieces within unique 3-Digit packages prepared under 565.3 that bear a ZIP+4 barcode or delivery point barcode can qualify for the B3/H3/J3 ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the B3/H3/J3 ZIP+4 rates. Other pieces qualify for the B3/H3/J3 presort rates.

b. Non-Unique 3-Digit Packages. Pieces within nonunique 3-Digit packages prepared under 565.3 that bear a ZIP+4 barcode or delivery point barcode can qualify for the A/G/J1 ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the A/G/J1 ZIP+4 rates. Other pieces qualify for the A/G/J1 presort rates.

565.223 Residual/Basic Pieces. Pieces that bear a correct ZIP+4 barcode or delivery point barcode in the residual/basic portion of the mailing prepared under 565.4 can qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the level A/G/J1 ZIP+4 rates. Other pieces qualify for the level A/G/J1 presort rates.

565.23 Third-Class Mail

565.231 5-Digit Packages. All pieces in 5-Digit packages prepared under 565.3 can qualify for the 5-Digit ZIP+4 Barcoded rate. Only pieces bearing a correct ZIP+4 barcode or correct delivery point barcode may be included in 5-Digit packages.

565.232 3-Digit Packages. Pieces within 3-Digit packages prepared under 565.3 that bear a ZIP+4 barcode or delivery point barcode can qualify for the 3-Digit ZIP+4 Barcoded rates; pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates. Other pieces qualify for the 3/5 presort rates.

565.233 Residual/Basic Pieces. Pieces that bear a correct ZIP+4 barcode or delivery point barcode in the residual/basic portion of the mailing prepared under 565.4 can qualify for the basic ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the basic ZIP+4 rates. Other pieces qualify for the basic presort rates.

565.3 Sortation Requirements—3/5 Presort Tier Qualifying Portion

565.31 Grouping/Packaging

565.311 General Rules

a. Groups/packages must meet the requirements in 561.1.

b. In mailings consisting entirely of pieces that fall within the dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) the pieces in any type of tray must always be secured into packages in accordance with 561.11.

c. All pieces, regardless of size, placed in AADC trays must be secured into packages in accordance with 561.11.

d. All pieces in 5-digit packages must bear the correct ZIP+4 barcode or delivery point barcode.

e. Pieces in optional city and 3-digit packages may contain pieces that do not bear the correct ZIP+4 barcode or delivery point barcode up to the 85% limit in 515.3.

565.312 Group/Package Sortation

a. Optional 5-Digit Groups/Packages. When there are 10 or more ZIP+4 barcoded or delivery point barcoded pieces for the same 5-digit ZIP Code destination, they may be prepared in 5-digit groups/packages. Preparation of groups/packages containing fewer than 10 pieces for a 5-digit area is not permitted. Each group of pieces for the same 5-digit area must be secured together into a package (or packages) and each package must be labeled as

described in 561.11 and 561.131, except that within 5-digit, second-class optional city, 3-digit, and SCF trays of mailings that contain pieces exceeding the dimensions for postcards, separator cards may be used to delineate pieces for the same 5-digit ZIP Code area as an alternative to securing pieces into packages. 5-digit groups delineated by separator cards must be labeled as described in 561.132. Neither packaging, separator cards, nor labeling, is required in full 5-digit trays, except for mailings of postcard size pieces which must be packaged (see 565.311b).

b. Optional City Groups/Packages (Second-Class Mailings Only). After preparing any 5-digit groups/packages under 565.312a, second-class mailers may choose to prepare groups/packages of 50 or more pieces for the same optional city listed in Exhibit 122.63a, to obtain the level B3/H3/J3 ZIP+4 Barcoded rates. Preparation of groups/packages containing fewer than 50 pieces for an optional city is not permitted. Each group of pieces for the same optional city must be secured together into a package (or packages) and each package must be labeled as described in 561.11 and 561.131, except that within optional city, 3-digit, and SCF trays of mailings containing pieces exceeding the dimensions for postcards, separator cards may be used to delineate pieces for the same optional city as an alternative to securing pieces into packages. Optional city groups delineated by separator cards must be labeled as described in 561.132.

c. 3-Digit Groups/Packages. After preparing any 5-digit groups/packages under 565.312a, and any optional city packages under 565.312b (second-class mail only), if there are 50 or more pieces remaining for a 3-digit ZIP code area, they must be prepared in 3-digit groups/packages. Preparation of groups/packages containing fewer than 50 pieces for the same 3-digit area is not permitted. Each group of pieces for the same 3-digit area must be secured together into a package (or packages) and each package must be labeled as described in 561.11 and 561.131, except that within 3-digit and SCF trays of mailings containing pieces exceeding the dimensions for postcards, separator cards may be used to delineate pieces for the same 3-digit ZIP Code area as an alternative to securing the pieces into packages. 3-digit groups delineated by separator cards must be labeled as described in 561.132.

565.313 Residual/Basic Pieces. Pieces remaining after preparing groups/packages in accordance with 565.311 and 565.312 are residual/basic pieces. Residual/basic pieces must be sorted in accordance with one of the options in 565.4.

565.32 Traying—3/5 Presort Tier

565.321 General. The requirements in 561.2 must be met. All pieces in a group/package for the same 5-digit, same optional city (second-class only), or same 3-digit destination should be placed together in the same tray. For example, all packages for ZIP Code 22033 within a 3-digit tray must be grouped together within the 3-digit tray. All pieces for the same group/package destination should be placed in the same tray. For example, 100 pieces for 220 should be placed in the same 3-digit tray and not split between a 3-digit tray and an SCF tray if physically possible. When all the pieces for the same group/package destination cannot physically fit in the same tray, the remaining pieces for the group/package destination must be placed in either another full tray for the same tray destination, or in a tray for the next level of sortation (or a less-than-full AADC tray for the same AADC destination).

565.322 Sortation

a. 5-Digit Trays. When there are enough groups/packages for the same 5-digit ZIP Code area to fill a tray, a 5-digit tray must be prepared for that destination. Less-than-full 5-digit trays are not permitted. 5-digit trays must be labeled as follows:

(1) *Nonmilitary Mail*

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED"

Line 3: Mailer information (see 561.273b(3)).

Example

DETROIT MI—48235
FCM LTRS BARCODED
NB COMPANY UNION SC

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPS 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

APO AE—09128
FCM LTRS BARCODED
NB COMPANY UNION SC

b. Optional City Trays (Second-Class Only). After preparing 5-digit trays, second-class mailers who prepare optional city groups/packages may prepare optional city trays whenever there are enough optional 5-digit and optional city groups/packages for the same optional city listed in Exhibit 122.63a to fill a tray. Less-than-full optional city trays are not permitted. Optional city trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by the city.

Line 2: Contents (2C or NEWS) followed by "LTRS BARCODED" and directly under the ZIP Code on Line 1, "CITY".

Line 3: Mailer information (see 561.273b(3)).

Example

LA JOLLA CA—92037
2C LTRS BARCODED CITY
HARD TIMES NEWS UNION SC

c. 3-Digit Trays. After preparing 5-digit trays (if applicable) and optional city trays (if applicable for second-class mail only), if there are enough optional 5-digit, optional city (second-class only), and 3-digit groups/packages for the same 3-digit ZIP Code area to fill a tray, a 3-digit tray must be prepared. Less-than-full 3-digit trays are not permitted. 3-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3–Digit ZIP Code Prefixes.*

Line 1: City, two-letter state abbreviation and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

KNOXVILLE TN—379
FCM LTRS BARCODED
LMM COMPANY FAIRFAX VA

(b) *Other 3–Digit ZIP Code Prefixes.*

Line 1: Name of SCF (letters "SCF" omitted) and two-letter state abbreviation of the SCF, followed by the 3-digit prefix of the pieces contained in the tray (see Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

WATERLOO IA—506
FCM LTRS BARCODED
XYZ CORP ROCHESTER NY

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

FPO AE—095
FCM LTRS BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. *Example:* APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

d. SCF Trays. After preparing 5-digit trays (if applicable), optional city trays (if applicable for second-class mail only), and all possible 3-digit trays, if there are enough optional 5-digit, optional city (second-class only), and 3-digit groups/packages remaining for one of the SCFs listed in Exhibit 122.63d to fill a tray, an SCF tray must be prepared. Less-than-full SCF trays are not permitted, except that one less-than-full tray for the SCF serving the post office where the mailing is entered is permitted. SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit SCF code as shown in Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

SCF SAN ANTONIO TX 780
FCM LTRS BARCODED
NBT CO BAKERSFIELD CA

e. AADC Trays. After preparing 5-digit trays (if applicable), optional city trays (if applicable for second-class mail only), and all possible 3-digit and SCF trays, remaining groups/packages (optional 5-digit, second-class optional city, and 3-digit packages) must be trayed to one of the AADCs listed in Exhibit 122.63t. The groups in all AADC trays must be secured into 5-digit (if applicable), optional city (if applicable for second-class only), or 3-digit packages as appropriate and labeled. Use of separator cards is not permitted in AADC trays. AADC trays must be labeled as follows:

Line 1: Applicable label information for the AADC shown in Exhibit 122.63t.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "AADC LTRS BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS PROVIDENCE RI—028
FCM AADC LTRS BARCODED
NBT CO BAKERSFIELD CA

565.4 Sortation Requirements—Residual/Basic Portion

565.41 General. Residual/basic pieces are those pieces remaining after preparing packages in accordance with 565.311 through 565.313. Accordingly, except as provided in 565.122b, there are always fewer than 50 pieces for the same 3-digit ZIP Code area within the residual/basic portion of the mailing. Residual/basic pieces must be placed in trays separate from qualifying pieces, except as provided in 565.44. The traying requirements in 561.2 must be met. Residual/basic pieces must be prepared in accordance with one of the options listed in 565.42 through 565.44 below. Once the basic requirements in 565.42 through 565.44 are met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy.*

565.42 Option 1: ZIP Code Sequencing and Listing. Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. If the last tray is less than full, the pieces in the tray must be secured into and labeled as 3-digit packages under 561.11 and 561.131. In addition, full trays of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095" inch thick), of any class of mail, must be secured into and labeled as 3-digit packages under 561.11 and 561.131. Mailers must provide a listing by 3-digit ZIP Code area of the various rate qualification categories as described in 565.53. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, separate residual/basic trays must be prepared for the ZIP Code areas eligible for the destination BMC rate as provided in 624.722. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

565.43 Option 2: Physical Separation by Rate Qualification

565.431 Basic Tray Separations. Residual/basic pieces bearing correct ZIP+4 barcodes or delivery point barcodes must be separately trayed from residual/basic pieces that do not. Pieces not bearing ZIP+4 barcodes or delivery point barcodes must be further separated so that pieces bearing a correct (see 530) numeric ZIP+4 code in the address and meeting the requirements of 540 are separately trayed from other pieces. The trays must be physically grouped according to these separations when presented to the post office for verification.

565.432 Additiona1 Tray Separations.

a. First-Class Nonidentical-Weight Metered or Precanceled Stamp Mailngs. There is a different first ounce rate for pieces weighing over 2 ounces in First-Class Mail. Accordingly, in nonidentical-weight First-Class metered or precanceled stamp mailings in which there are both pieces weighing 2 ounces or less and pieces weighing over 2 ounces, and postage at the exact rate is not affixed to each piece, further tray separations must be made by pieces weighing over 2 ounces and pieces weighing 2 ounces or less for each of the three basic separations required in 565.431 above. The trays must be physically grouped according to these separations when presented to the post office for verification. Precanceled stamp mailings must meet the tray separation requirements in 565.432b when postage to cover additional ounce increments is not affixed to each piece as permitted under 581.34 or 581.4.

b. First-Class Nonidentical Weight Precanceled Stamp Mailings in Which Postage To Cover Additional Ounce Increments is Not Affixed. In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increments in which precanceled

stamps to cover postage for the additional ounce or ounces is not affixed under 581.34 or 581.4, further tray separations must be made by pieces of each ounce increment in the mailing for each of the three basic separations required in 565.431. The trays must be physically grouped according to these separations when presented to the post office for verification.

c. First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces. For metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, pieces weighing one ounce or less must be further separated so that postcard rate pieces are trayed separately from letter-rate pieces for each of the three basic separations required in 565.431. The additional tray separations in 565.432b may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

d. Second-Class Mailings Containing In-County and Outside County Pieces. Within second-class mailings containing both in-county and outside-county pieces, in-county pieces must be separately trayed from outside-county pieces for each of the three basic tray separations required in 565.431 above. The trays must be physically grouped according to these separations when presented to the post office for verification.

e. Third-Class Mailings Claiming Destination BMC Rates. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, further tray separations by pieces within the BMC service area and pieces outside the BMC service area must be made for each of the three basic separations required in 565.431.

565.433 Separation Into Groups of 100 Pieces Within Each Tray. Within each of the trays resulting from sortation in accordance with 565.431 and 565.432, the pieces must be separated into groups of 100 pieces. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays of postcard-size pieces (pieces measuring not more than 4–1/4 inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of residual/basic trays, the actual number of pieces in the group must be written on the separator card. The total number of residual/basic pieces in each rate category must be added to the summary portion of the documentation required in 565.533.

565.434 Tray Labels. Option 2 residual/basic trays must be labeled as follows:

a. Tray Containing ZIP+4 Barcoded or Delivery Point Barcoded Pieces.

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

b. Trays Containing Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded Bearing Correct Numeric ZIP+4 Code in Address and Meeting Requirements of 540.

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" (or "ZIP+4 WKG").

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
FCM ZIP+4 WORKING
EXETER CO DUPONT PA

c. Trays Containing Other Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded.

Line 1: Letters "DIS" followed by the name, two letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C LTRS) followed by "WORKING" (or "WKG").

Line 3: Mailer information (see 561.273b(3)).

Example

DIS WILKES-BARRE PA—186
3C LTRS WORKING
COAL CO DUPONT PA

565.44 Option 3: Placement in AADC Trays of the 3/5 Presort Tier Portion. Under this option, whenever there are residual/basic pieces for an AADC area for which an AADC tray was prepared within the 3/5 presort tier, the residual/basic pieces for that AADC area must be secured into and labeled as 3-digit packages and placed in the AADC tray with qualifying mail. Residual/basic pieces for 3-digit areas for which there is no corresponding AADC tray of qualifying mail must be placed in ascending numeric 3-digit ZIP Code sequence within separate trays containing only residual/basic pieces as described in 565.42. Mailers must provide a listing by 3-digit ZIP Code area under the residual/basic presort tier section of the documentation as described in 565.532 of the various rate qualification categories for both the pieces placed in AADC trays and the pieces trayed in separate residual/basic trays. Trays containing only residual/basic pieces must be labeled as described in 565.42.

565.5 Documentation

565.51 Purpose. Documentation enables the Postal Service to verify the percentage of ZIP+4 barcoded pieces or delivery point barcoded pieces in the mailing. It also enables the Postal Service to verify the number of pieces claimed at each rate category on the mailing statement, and to verify that any difference between the amount of postage affixed to the pieces in the mailing, and the amount of postage owed for the pieces is paid. It does this by providing the Postal Service with a detailed description of what is being mailed, how it is prepared, the rate for which pieces qualify, and how many pieces have a ZIP+4 barcode or delivery point barcode. The USPS will compare the numbers shown on the mailer's documentation with counts of samples taken from the actual mailing to confirm that the information on the documentation is accurate.

Note: For second-class mailings, the documentation described in this section will provide the presort per piece rate documentation and the 85% ZIP+4 barcoded or delivery point barcoded documentation required in 424.841 and 424.843. Documentation in addition to the documentation described in 564.14 must be prepared for mailings of second-class publications as set forth in 424.84.

565.52 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 565.53, with the following exceptions:

a. No documentation is required when every piece in the mailing bears the correct ZIP+4 barcode or correct delivery point barcode and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Mailings containing both 5-digit and 3-digit packages do not meet this condition since 5-digit and 3-digit packages are placed in the same optional city, 3-digit, SCF, and AADC trays. Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates also do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 Barcoded rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

565.53 Information Required

565.531 Heading and General Format Requirements. The top of the first page of the documentation must show the class of mail and the words "DMM 565 Presort." When only some pieces in a third-class mailing qualify for a destination entry rate, or when a mailing contains pieces that qualify for more than one destination entry rate, a description of the characters used within the listing portion of the documentation to identify the ZIP Codes qualifying for each destination entry discount, must also appear at the top of the first page (see 565.532d(6)). The documentation must consist of ZIP Code listings for the 3/5 presort tier and the residual/basic presort tier (except for residual/basic pieces prepared under the physical separation option in 565.43) as described in 565.532, as well a summary as described in 565.533. At the mailer's option, additional information showing the trays in which the pieces appear may also be included. It is recommended that one of the formats shown in Exhibit 565.53 A or Exhibit 565.53 B be used. If another format is used, it must allow Postal Service verification personnel to easily determine the information required by 565.532 and 565.533 using a single report. See 565.532f for an exception to the single report requirement for second-class mailings containing more than one edition and/or publication. Information that could not pertain to the class being mailed (such as column headings for Level A, Level B, Level J rates in a third-class mailing) must not be included in the documentation.

565.532 Required Information—ZIP Code Listing Portion

a. Presort Tier Sections. The ZIP Code listing portion of the documentation must be divided into two sections by presort tier; the 3/5 presort tier and the residual/basic presort tier. The residual/basic presort tier is not required if residual/basic mail is prepared under the physical separation option in 565.43. Each presort tier section must be preceded by a heading that names the presort tier.

b. ZIP Code Column. The 5-digit or 3-digit ZIP Codes of pieces in all qualifying packages in the 3/5 presort tier of the mailing must be listed in ascending numeric order under a column heading "ZIP Codes." The ZIP Code column must be listed using one of the following two methods:

(1) ZIP Code Listings Divided Into Sections by Type of Package (See Exhibit 565.53A)

(a) *3/5 Presort Tier.* The ZIP Code listing for the 3/5 presort tier must be divided into sections by type of group/package (5-digit, second-class optional city, 3-digit). Each section must be preceded by a heading indicating the type of group/package to be listed. Under the 5-digit section, pieces in 5-digit groups/packages must be listed by 5-digit ZIP Code. In second-class mailings under the optional city section, optional city groups/packages must be listed by the lowest assigned 5-digit ZIP Code for the city shown in Exhibit 122.63a. Under the 3-digit section, pieces in 3-digit groups/packages must be listed by 3-digit ZIP Code.

(b) *Residual/Basic Presort Tier.* The ZIP Code listing for the residual/basic presort tier must be a single section that lists ZIP Codes for residual/basic pieces by 3-digit ZIP Code.

(2) Continuous ZIP Code List (See Exhibit 565.53B)

(a) *3/5 Presort Tier.* All packages are listed in numeric sequence in one section. For First- and third-class mailings, as well as second-class mailings that do not contain optional city packages, 5-digit packages must be listed by 5-digit ZIP Code and 3-digit packages must be listed by 3-digit ZIP Code. For second-class mailings containing optional city packages, 5-digit ZIP Codes representing pieces in 5-digit packages must be listed by 5-digit ZIP Code and preceded by the abbreviation 5DG; optional city packages must be listed by the lowest assigned 5-digit ZIP Code for the city shown in Exhibit 122.63a and preceded by the abbreviation CTY; 3-digit packages must be listed by 3-digit ZIP Code and preceded by the abbreviation 3DG.

(b) *Residual/Basic Presort Tier.* Residual/basic pieces listed under the residual/basic presort tier section must be listed by 3-digit ZIP Code. It is not necessary that an identifying prefix be shown in front of the 3-digit ZIP Code prefixes of residual/basic pieces, however, if one is used it should be WKG.

c. Basic Columns and Line Entries for Rates and Totals. For each ZIP Code entry on the listing show:

(1) The number of ZIP+4 barcoded or delivery point barcoded pieces under a column heading (or column headings—see 565.532d) naming the rate for which the pieces qualify based on the class of mail (see 565.21) and indicating that the pieces are ZIP+4 barcoded or delivery point barcoded.

(2) The number of non-ZIP+4 barcoded or non-delivery point barcoded pieces with a correct numeric ZIP+4 code (see 530) in the address meeting the requirements of 540, under a column heading (or column headings—see 565.532d) naming the rate for which the pieces qualify based on the class of mail (see 565.21) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. The documentation does not need to contain a column for these pieces if none appear in a mailing, or if the ZIP+4 rates are not claimed for such pieces. These pieces are not permitted in 5-digit packages.

(3) The number of remaining pieces that are not ZIP+4 barcoded, delivery point barcoded, or numerically ZIP+4 coded under a column heading (or column headings—see 565.532d) naming the rate for which the pieces qualify based on the class of mail (see 565.21) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. (This column includes pieces with a 5-digit numeric ZIP Code as well as pieces without a ZIP+4 or delivery point barcode that contain a correct numeric ZIP+4 code, but do not meet the OCR processing requirements in 540. It also includes pieces without a ZIP+4 barcode or delivery point barcode that contain a numeric ZIP+4 Code not matched against CASS certified software in accordance with 530.) These pieces are not permitted in 5-digit packages.

(4) The cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding ZIP Code entries in the applicable presort tier section of the documentation) under a column heading "Cumulative Total." (The totals accumulate only for each individual presort tier section of the listing, except that when the type of package option is used for the 3/5 presort tier the totals accumulate only within each individual type of package section in the 3/5 presort tier.)

d. Additional Rate Columns or Line Entries.

(1) *First-Class Metered or Precanceled Stamp Mailings Containing Pieces Both Over and Under 2 Ounces.* Within the residual/basic presort tier section of the documentation for metered and precanceled stamps mailings in which postage at the exact rate is not affixed, two rate columns, one for reporting pieces weighing less than 2 ounces and one for reporting pieces weighing 2 ounces or more must be shown for each of the basic column separations described in 565.532c(1), 565.532c(2), and 565.532c(3). Each column heading must contain the name of the residual rate (see 565.213) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. Precanceled stamp mailings in which postage to cover additional ounce increments is not affixed must meet the additional documentation requirements in 565.532d(2).

(2) *First-Class Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34 or 581.4, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic column separations described in 565.532b(1), 565.532b(2), and 565.532b(3). Each rate column heading must show the name of the rate (see 565.21) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded.

(3) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within the residual/basic presort tier section of the documentation for metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter rate must be shown for each of the basic column separations described in 565.532c(1), 565.532c(2), and 565.532c(3). The column headings must contain the name of the rate (see 565.213) for which the pieces qualify, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. The additional column separations in 565.532d(2) are also necessary for both the 3/5 presort tier and the residual/basic presort tier for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34 or 581.4.

(4) *Second-Class Mailings Containing Both In-County and Outside-County Rate Pieces.* For second-class mailings containing both in-county and outside-county pieces, separate columns for in-county pieces and for outside-county pieces must be shown for pieces listed under 565.532c(1), 565.532c(2), and 565.532c(3). In addition, for 3-digit packages, separate columns for unique 3-digit packages that qualify for the level B3 or H3 rates, and for the level J3 rates must be shown, and separate columns for nonunique 3-digit packages that qualify for level A or G rates, and for level J1 rates must be shown, for each of the three general categories of pieces in 565.532c(1), 565.532c(2), and 565.532c(3). To reduce the number of columns across a page, mailers using the ZIP Code listing option in 565.532b(2) (ZIP Code Listings Divided into Sections by Type of Package) may break the 3-digit package section into further sections by rate category: one section for optional city and unique 3-digit packages recorded at the level B3/H3 and J3 rates, and another section for nonunique 3-digit packages at the level A/G or J1 rates. The column headings must contain the name of the rate (see 565.22) for which the pieces qualify, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. Only two rate columns are possible for 5-digit packages on the listing, since only ZIP+4 barcoded or delivery point barcoded pieces are permitted in those packages.

(5) *Second-Class Combined Mailings.* See 565.532f.

(6) *Third-Class Mailings Claiming Destination SCF or Destination BMC Rates.* In third-class mailings in which some combination of SCF destination entry, BMC destination entry, and no destination entry discount is claimed (that is, not all pieces in the mailing qualify for the same destination discount) the ZIP Codes on the presort tier listings that are eligible for the SCF entry discount or the BMC entry discount must be marked with an asterisk or some other unique character. If both the SCF discount and BMC discount are claimed in the same mailing, a different character from the one used to mark the ZIP Codes eligible for the SCF discount must be used to mark the ZIP Codes eligible for the BMC discount.

e. Presort Tier Column Totals. At the end of each presort tier section of the listing (or under each package section of the 3/5 presort tier when the type of package option is used), show the total number of pieces listed under each rate column and under the cumulative total column.

f. Additional Requirements For Second-Class Combined Mailings. In addition to the documentation required by 565.53, second-class mailings combining pieces from more than one second-class publication or edition must provide additional information by publication or edition as required by 424.853. This additional information may be provided as a separate report or reports.

565.533 Summary Portion

a. Second-Class Mailings and Identical Weight Permit Imprint Mailings.

(1) *Rate Categories and Postage Owed.* The summary must list each rate category at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. (For residual/basic mail sorted under the physical separation option in 565.43, information is also obtained from the manual counts of residual/basic pieces in the separate trays for each rate category.) When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The total number of pieces claimed at that rate.

(b) The applicable rate (amount) of postage.

(c) The postage charges for that rate category (the total number of pieces times the rate of postage).

Note: The applicable rate and postage charges are not required for second-class mailings.

(2) Totals

(a) A grand total of the postage charges for all the rate entries for the entire mailing must be shown (optional for second-class mailings). This grand total is the amount of postage owed for the mailing and the amount to be deducted from the advance deposit account for permit imprint mailings, or is the amount of second-class per piece charges for the mailing prior to deductions for the nonadvertising percentage discount and zone rate discounts.

(b) The total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

b. First- and Third-Class Metered and Precanceled Stamp Mailings.

(1) *Rate Categories and Postage Owed.* The summary must list each rate at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. For residual/basic mail sorted under the physical separation option in 565.43, information is also obtained from the manual counts of pieces in the separate trays for each rate category. For nonidentical-weight First-Class precanceled stamp mailings in which stamps to cover the additional ounces are not affixed, each rate category must be listed more than once so that there is a separate listing for each ounce increment at that rate. First-Class postcard rate pieces must also be listed separately from letter-rate First-Class pieces. For First-Class metered mailings containing residual pieces over and under two ounces, each residual rate category must have a separate listing for pieces weighing 2 ounces or less and a separate listing for pieces weighing over 2 ounces. First-Class postcard rate pieces must also be listed separately from letter-rate First-Class pieces. When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The number of pieces claimed at that rate.

(b) The amount of additional postage due for each piece at that rate (when the amount of postage affixed is less than the rate of postage owed).

(c) The postage due for pieces claimed at that rate (the total number of pieces at that rate category times the amount of postage due per piece).

(2) Totals

(a) A grand total of the additional postage charges due for all the rate entries for the entire mailing must be shown. This grand total is the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account.

(b) The total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

565.6 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 565 Presort" at the top of the mailing statement.

566 OPTION 1—THREE-TIER PACKAGE-BASED ZIP+4 BARCODED RATE MAILINGS (REQUIRED MARCH 21, 1993, OPTIONAL UNTIL THEN)

566.1 General Requirements

566.11 Description of a Mailing. A single ZIP+4 Barcoded rate mailing prepared under 566 may be made up of three presort tiers; the optional 5-digit presort tier, the 3-digit presort tier, and the residual/basic presort tier. See 564.12 for a further description of presort tiers. Rates for pieces in the mailing are based upon the type of package in which they are placed. See 566.2 for a detailed description of the rates for which pieces in each presort tier can qualify. A single mailing may, at the mailer's option:

a. Include all three presort tiers.

b. Contain only a 3-digit presort tier and a residual/basic tier.

c. Contain only a 5-digit presort tier.

d. If a First-Class mailing, contain only a 5-digit presort tier and a residual tier.

e. If a First-Class mailing, contain only a residual tier.

f. If a second- or third-class mailing, contain only a residual/basic tier under the limited conditions in 566.132a.

566.12 Description of Presort Tiers

566.121 Optional 5-Digit Presort Tier. The 5-digit presort tier consists of groups of 10 or more ZIP+4 barcoded or delivery point barcoded pieces per 5-digit area placed in 5-digit, 3-digit, SCF, and AADC trays, as required by 566.13 and 566.3. All trays must be full trays except for AADC trays. 5-digit groupings within trays must be packaged or delineated by separator cards in accordance with 566.32. The 10-piece minimum per 5-digit area applies to all classes of mail. All pieces in the 5-digit presort tier must contain the correct ZIP+4 barcode or delivery point barcode (see 515.32). The 5-digit presort tier is required only if 5-digit ZIP+4 Barcoded rate are claimed.

566.122 3-Digit Presort Tier. The 3-digit presort tier consists of groups/packages of 50 or more pieces per 3-digit area placed in 3-digit, SCF, or AADC trays as required by 566.13 and 566.4. These 3-digit groups/packages must be placed in trays that are separate from trays containing 5-digit groups/packages. For second-class mailings, optional groups/packages of 50 or more pieces for the multi-coded cities listed in Exhibit 122.63a may be prepared prior to preparing groups/packages of 50 or more pieces per 3-digit area and trayed with the 3-digit groups/packages. Packaging or use of separator cards is not required for groups/packages in the 3-digit presort tier except within less than full AADC trays and except for postcard-size pieces of any class.

566.123 Residual/Basic Presort Tier. The residual/basic presort tier consists of pieces remaining after performing 5-digit sortations under 566.3 (if applicable) and 3-digit sortations under 566.4. The residual/basic tier must be sorted to one of the following three options:

a. Trayed separately in 3-digit ZIP Code sequence as described in 566.52.

b. Physically separated by rate category as described in 566.53.

c. Packaged, labeled, and placed in AADC trays containing qualifying pieces in the 3-digit presort tier of the mailing, with pieces for which AADC trays are not available being trayed separately in ZIP Code sequence (see 566.54).

566.13 Hierarchy of Presort

566.131 Mailings Containing 5-Digit and 3-Digit Presort Tiers. Since the 5-digit presort tier must be prepared only if 5-digit ZIP+4 Barcoded rates are claimed, mailers need not prepare all possible 5-digit packages in the 5-digit presort tier before preparing the 3-digit presort tier. Mailers may prepare 5-digit packages to only selected 5-digit ZIP Code areas in the 5-digit presort tier. When a mailing contains 5-digit

packages for a ZIP Code area, not all pieces for that ZIP Code area are required to be placed in 5-digit packages in the 5-digit presort tier. The mailer may elect to place some pieces for that 5-digit ZIP Code area in the 3-digit presort tier and pay a higher rate. In all cases, however, each 5-digit package in the 5-digit presort tier must contain at least 10 ZIP+4 barcoded or delivery point barcoded pieces (see 566.31 and 515.32).

Example: A mailing contains 150 pieces for ZIP Code 22033, of which 135 are delivery point barcoded, and 15 are not barcoded but contain a 5-digit ZIP Code. The same mailing contains 30 pieces (28 delivery point barcoded and 2 nonbarcoded with a 5-digit ZIP Code) for other ZIP Codes with a 220 ZIP Code prefix. The mailer elects to prepare 5-digit packages to 22033. The 15 pieces to 22033 that do not contain a barcode cannot be included in the 5-digit presort tier and are dropped down to the 3-digit presort tier. These 15 pieces, when added to the 30 pieces for other ZIP Codes within 220, equal 45 pieces for the 3-digit area 220. Since 50 pieces are needed to make up a 3-digit package, the mailer may elect to take 5 pieces for 22033 and move them to the 3-digit presort tier. This will result in a total of 130 pieces for 22033 in the 5-digit presort tier and 50 pieces for 220 in the 3-digit presort tier.

566.132 Mailings Containing 3-Digit and Residual/Basic Presort Tiers

a. Required for Second- and Third-Class Mailings. All package-based second- and third-class ZIP+4 Barcoded rate mailings must contain both a 3-digit presort tier and a residual/basic presort tier. Within these mailings, all possible 3-digit packages of 50 or more pieces to the same 3-digit area must be prepared and placed in the 3-digit presort tier, before the residual/basic presort tier is prepared. For second-class mailings, optional city packages of 50 or more pieces may also be made, at the mailer's option, and on a selected basis, prior to preparing 3-digit packages. The only instance in which a residual/basic presort tier may be submitted by itself as a second- or third-class mailing is if the mailer attempted to perform 3-digit package sortations, but there were no groups of 50 or more pieces for any 3-digit ZIP Code area in the mailing.

b. First-Class Mailings. Since the residual portion of a First-Class mailing is paid for at single-piece rates, mailers are not required to prepare all possible 3-digit packages of 50 or more pieces to the same 3-digit area and tray them within the 3-digit presort tier before going on to prepare the residual presort tier. That is, the residual portion of a First-Class mailing may contain groups of 50 or more pieces for the same 3-digit ZIP Code area.

566.2 Rate Eligibility

566.21 First Class Mailings

566.211 5-Digit Presort Tier (Groups of 10 or more Pieces per 5-Digit Area in 5-Digit, 3-Digit, SCF, and AADC Trays). All pieces within the 5-digit presort tier prepared under 566.3 can qualify for the 5-digit ZIP+4 Barcoded rate. Only pieces bearing a correct ZIP+4 barcode or delivery point barcode may be included in this presort tier.

566.212 3-Digit Presort Tier (Groups of 50 or More Pieces per 3-Digit Area in 3-Digit, SCF, and AADC Trays). Within the 3-digit presort tier prepared under 566.4, pieces that bear the correct ZIP+4 barcode or delivery point barcode and meet the requirements of 550 can qualify for the 3-Digit ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code (see 530) in the address and meet the requirements of 540 can qualify for the ZIP+4 Presort rate. Other pieces qualify for the Presorted First-Class rate.

566.213 Residual Presort Tier. Within the residual presort tier prepared under 566.5, pieces that bear a correct ZIP+4 barcode or delivery point barcode can qualify for the nonpresorted ZIP+4 Barcoded rates if they also meet the requirements for the card rates (see 311.11, 322, and 515.512), otherwise they can qualify for the nonpresorted ZIP+4 rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the nonpresorted ZIP+4 rate. Other pieces qualify for the single-piece First-Class rates.

566.22 Second Class Mailings

566.221 5-Digit Presort Tier (Groups of 10 or More Pieces per 5-Digit Area in 5-Digit, 3-Digit, SCF, and AADC Trays). All pieces in 5-digit packages prepared under 566.3 can qualify for the level B5/H5/J5 ZIP+4 Barcoded rates. Only pieces bearing a correct ZIP+4 barcode or correct delivery point barcode may be included in 5-digit packages.

566.222 3-Digit Presort Tier—Groups of 50 or More Pieces per 3-Digit Area (or per Optional City) in 3–Digit, SCF, and AADC Trays.

a. Optional City and Unique 3-Digit Packages. Within the 3-digit presort tier, groups of 50 or more pieces for an optional multi-coded city listed in Exhibit 122.63a and groups of 50 or more pieces for a unique 3-digit ZIP Code area listed in Exhibit 122.63b can qualify for rates as follows. Pieces that bear a correct ZIP+4 or delivery point barcode can qualify for the B3/H3/J3 ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the B3/H3/J3 ZIP+4 rates. Other pieces qualify for the B3/H3/J3 presort rates.

b. Nonunique 3-Digit Packages. Within the 3-digit presort tier, groups of 50 or more pieces to a nonunique 3-digit ZIP Code area that are not part of a group of 50 or more pieces for an optional city listed in Exhibit 122.63a can qualify for rates as follows. Pieces that bear a ZIP+4 or delivery point barcode can qualify for the A/G/J1 ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the A/G/J1 ZIP+4 rates. Other pieces qualify for the A/G/J1 presort rates.

566.223 Residual/Basic Pieces. Within the residual/basic presort tier prepared under 566.4, pieces that bear a correct ZIP+4 barcode or delivery point barcode can qualify for the level A/G/J1 ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the level A/G/J1 ZIP+4 rates. Other pieces qualify for the level A/G/J1 presort rates.

566.23 Third-Class Mailings

566.231 5-Digit Presort Tier (Groups of 10 or more Pieces per 5-Digit Area in 5-Digit, 3-Digit, SCF, and AADC Trays). All pieces within the 5-digit presort tier prepared under 566.3 can qualify for the 5-digit ZIP+4 Barcoded rates. Only pieces bearing a correct ZIP+4 barcode or delivery point barcode may be included in this presort tier.

566.232 3-Digit Presort Tier (Groups of 50 or More Pieces per 3-Digit Area in 3-Digit, SCF, and AADC Trays). Within the 3-digit presort tier prepared under 566.4, pieces that bear the correct ZIP+4 barcode or delivery point barcode and meet the requirements of 550 can qualify for the 3-digit ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code (see 530) in the address and meet the requirements of 540 can qualify for the 3/5 presort rates. Other pieces qualify for the 3/5 presort rates.

566.233 Residual/Basic Presort Tier. Within the residual presort tier prepared under 566.5, pieces that bear a correct ZIP+4 barcode or delivery point barcode can qualify for the basic ZIP+4 Barcoded rates. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address (see 530) and meet the requirements of 540 can qualify for the basic ZIP+4 rates. Other pieces qualify for the basic presort rates.

566.3 Sortation—5-Digit Presort Tier

566.31 Miniumum Quantity per 5-Digit Area. There must be at least 10 ZIP+4 barcoded or delivery point barcoded pieces for each 5-digit ZIP Code area in the 5-digit presort tier. Only pieces with a correct ZIP+4 barcode or delivery point barcode are permitted in the 5-digit presort tier. When there are fewer than 10 pieces for a 5-digit ZIP Code area, the pieces for that 5-digit area must be placed in the 3-digit presort tier or residual/basic presort tier of the mailing, or be submitted in a separate mailing.

566.32 Grouping and Packaging

566.321 Grouping/Packaging in Full 5-Digit Trays. There are no ZIP Code grouping or packaging requirements for full 5-digit trays of pieces of any class that contain pieces larger than the maximum dimensions for postcards (4–1/4 inches high, 6 inches long, and .0095 inch thick). It is recommended that such pieces in full 5-digit trays not be packaged. Pieces in full 5-digit trays of any class that consist entirely of pieces within the dimensions for postcards must be secured into packages under 561.11. Mailers are permitted to package pieces larger than the maximum dimensions for postcards in full 5-digit trays as provided in 561.11. If pieces are packaged, no package labels are required.

Note: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. See 561.232 for additional restrictions on use of separator cards for pieces exceeding the width of standard MM trays.

566.322 Grouping/Packaging in Full 3–Digit and SCF Trays. Within full 3-digit and SCF trays, pieces for each 5-digit ZIP Code area contained in the tray must be grouped together. It is recommended, but not required, that the groups of pieces for the same 5-digit ZIP Code be placed in trays in ascending numeric sequence. Each group of pieces for a 5-digit area must be separated from other groups of pieces for 5-digit areas placed in the trays either by packaging or by separator cards under 561.11 or 561.12. Separator cards are the preferred method for pieces of any class that exceed the maximum dimensions for postcards. Pieces in 3-digit or SCF trays of any class that consist entirely of pieces within the dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) must be secured into packages under 56.11. Package labels are not required.

Note: Until March 21, 1993, mailers may place in standard MM trays, pieces that are wider or taller than those trays in accordance with 561.23. See 561.232 for additional restrictions on use of separator cards for pieces exceeding the width of standard MM trays.

566.323 Grouping/Packaging in AADC Trays. Within both full and less-than-full AADC trays groups of pieces for each 5-digit ZIP Code area must be secured into packages as described in 561.11. Each package must contain only mail for a single 5-digit area. Packages for the same 5-digit ZIP Code area must be grouped together in the tray. It is recommended, but not required, that the groups of pieces for the same 5-digit ZIP Code be placed in trays in ascending numerical sequence. Package labels are not required.

566.33 Traying—5-Digit Presort Tier

566.331 General. The requirements in 561.2 must be met.

566.332 Tray Sortation.

a. 5-Digit Trays. When there are enough pieces to the same 5-digit destination to fill a tray (see 561.24), a 5-digit tray must be prepared for that destination. Less-than-full trays are not permitted. 5-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

Line 1: City, two-letter state abbreviation, and 5-digit ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

DETROIT MI—48235
FCM LTRS 5DG BARCODED
NB COMPANY UNION SC

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPS 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

APO AE—09128
FCM LTRS 5DG BARCODED
NB COMPANY UNION SC

b. 3-Digit Trays. After preparing all possible 5-digit trays, if there are enough 5-digit groups/packages remaining to fill a tray for a 3-digit ZIP Code destination, a 3-digit tray must be prepared. Groups of pieces for each 5-digit ZIP Code area within the tray must be delineated by separator cards or packaging as set forth under 566.322. Less-than-full 3-digit trays are not permitted. 3-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3-Digit ZIP Code Prefixes.*

Line 1: City, two-letter state abbreviation and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

KNOXVILLE TN—379
FCM LTRS 5DG BARCODED
LMM COMPANY FAIRFAX VA

(b) *Other 3-Digit ZIP Code Prefixes.*

Line 1: Name of SCF (letters "SCF" omitted) and two-letter state abbreviation of the SCF, followed by the 3-digit prefix of the pieces contained in the tray (see Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

NORTHERN VIRGINIA VA—221
NEWS LTRS 5DG BARCODED
ABC MAIL CO ROCHESTER NY

(2) Military Mail.

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

FPO AE—095
FCM LTRS 5DG BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-

digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

c. SCF Trays. After preparing all possible 5-digit and 3-digit trays, if there enough 5-digit groups/packages remaining for one of the SCFs listed in Exhibit 122.63d to fill a tray, an SCF tray must be prepared. Less-than-full SCF trays are not permitted, except that one less-than-full tray for the SCF serving the post office where the mailing is entered is permitted. Groups of pieces for each 5-digit ZIP Code area within the tray must be delineated by separator cards or packaging as set forth under 566.322. SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit SCF code as shown in Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 5DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example:

SCF SAN ANTONIO TX—780
2C LTRS 5DG BARCODED
ABC CO BAKERSFIELD CA

d. AADC Trays. After preparing all possible 5-digit, 3-digit, and SCF trays, any remaining 5-digit groups/packages must be trayed to one of the AADCs listed in Exhibit 122.63t. All 5-digit groups/packages in both full and less-than-full AADC trays must be secured into packages under 561.11. Use of separator cards is not permitted in AADC trays. AADC trays must be labeled as follows:

Line 1: Applicable label information for the AADC shown in Exhibit 122.63t.

Line 2: Appropriate class or contents designation, (FCM, 2C, NEWS, or 3C) followed by "LTR AADC 5D BARCODE".

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS PROVIDENCE RI—028
FCM LTR AADC 5D BARCODE
NBT CO BAKERSFIELD CA

566.4 Sortation—3-Digit Presort Tier

566.41 Minimum Quantity per 3-Digit Area. There must be at least 50 pieces for each 3-digit ZIP Code area contained in the 3-digit presort tier. For second-class mailings, groups of 50 or more pieces for an optional city in Exhibit 122.63a may be prepared before preparing groups of 50 or more pieces for the same 3-digit ZIP Code area. All pieces in a group of 50 or more pieces for the same optional city or same 3-digit ZIP Code should be placed in the same tray. However, when all the pieces in a group of 50 or more pieces cannot fit in the same tray when trayed in accordance with 566.43, the remaining pieces must be placed in another full tray to the same destination or in a tray to the next level of sortation. Residual/basic packages consisting of fewer than 50 pieces per 3-digit ZIP code area may be trayed with qualifying mail. in AADC trays only as provided in 566.54. Such residual/basic pieces are considered part of the residual/basic presort tier for rate qualification and documentation purposes.

566.42 Grouping and Packaging Requirements

555.421 Grouping/Packaging in Optional City Trays (Second-Class Mailings Only). Second-class mailers may choose to prepare groups of 50 or more pieces for the optional cities listed in Exhibit 122.63a to obtain the level B3/H3/J3 rates as described in 566.222a, before preparing groups of 50 or more pieces for 3-digit ZIP Code area. If mailers choose to claim the level B3/H3/J3 rates for optional cities in this manner, and there is a full tray of this mail for the same optional city, an optional city tray must be prepared as described in 566.432. There are no ZIP Code grouping or packaging requirements for pieces in optional city trays except for pieces in trays consisting entirely of pieces that fall within the size dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) which must be secured into packages under 561.11. It is recommended that mail in optional city trays not be packaged. However mailers are permitted to package pieces in optional city trays as provided in 561.11. If pieces are packaged, no package labels are required.

Note: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. See 561.232 for additional requirements for packaging of pieces exceeding the width of standard MM trays.

566.422 Grouping/Packaging in 3-digit Trays.

a. First- and Third-Class Mailings. There are no grouping or packaging requirements for 3-digit trays, except for trays consisting entirely of pieces that fall within the size dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) which must be secured into packages under 561.11. It is recommended that mail in 3-digit trays not be packaged. However, mailers are permitted to package pieces in 3-digit trays as provided in 561.11. If pieces are packaged, no package labels are required.

b. Second-Class Mailings. There are no grouping or packaging requirements for 3-digit trays except when mailers choose to perform optional city sortations as described in 566.421 and when the mailing consists entirely of pieces that fall within the size dimensions for postcards (not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick). When optional city sortations are made, groups of 50 or more pieces for an optional city must be grouped together within 3-digit trays. Any remaining group of 50 or more pieces for the 3-digit ZIP Code area that is not related to an optional city must be grouped together in the tray. Trays containing only pieces that meet the dimensions for postcards must be secured into packages under 561.11. It is recommended that pieces exceeding the dimensions for postcards in 3-digit trays not be packaged. However, mailers are permitted to package or use separator cards to delineate optional city groups from 3-digit groups as provided in 561.11 or 561.12. If groups of 50 or more pieces for optional city or 3-digit ZIP Codes are secured into packages or delineated by separator cards, no package labels are required.

Note: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. See 561.232 for additional requirements concerning packaging.

566.423 Grouping/Packaging in SCF Trays. In SCF trays, each group of 50 or more pieces for a 3-digit ZIP Code area contained in the tray must be grouped together, and each group of 50 or more pieces for the same optional city (second-class only) must be grouped together. It is recommended, but not required, that the groups of pieces for the same 3-digit ZIP Code be placed in trays in ascending numeric sequence (for example, pieces for 023 would be placed in a tray in front of pieces for 024). In trays that contain only pieces that meet the dimensions for postcards (pieces not exceeding 4¼ inches high, 6 inches long, and .0095 inch thick) the pieces must be secured into packages under 561.11. In trays containing pieces that are larger than the dimensions for postcards it is recommended that groups for 3-digit and optional cities not be packaged or separated. However, mailers are permitted to package or use separator cards to delineate optional city groups and 3-digit groups from each other as provided in 561.11 or 561.12. If

groups of 50 or more pieces for optional city or 3-digit ZIP Codes are secured into packages or delineated by separator cards, no package labels are required.

Note: Until March 21, 1993, mailers may place in standard MM letter trays, pieces that are wider or taller than those trays in accordance with 561.23. See 561.232 for additional requirements concerning packaging of such pieces in trays.

566.424 Grouping/Packaging in AADC Trays. Within both full and less-than-full AADC trays, the groups of pieces for each 3-digit ZIP Code area contained in the tray must be secured together into packages as described in 561.11. Each package must contain only mail for a single 3-digit area. Packages for the same 3-digit area must be grouped together in the tray. In second-class mailings in which groups of pieces to optional cities have been prepared, the optional city groups of pieces must be secured together into packages as described in 561.11. Each optional city package must contain only mail for a single optional city. Packages for the same optional city must be grouped together in the tray. It is recommended, but not required, that the groups of pieces for the same 3-digit ZIP Code be placed in trays in ascending 3-digit numeric sequence (for example, pieces for 324 would be placed in a tray in front of pieces for 325). No package labels are required.

566.43 Traying Requirements

566.431 General. The requirements in 561.2 must be met.

566.432 Tray Sortation.

a. Optional City Trays (Second-Class only). Second-Class mailers who have chosen to prepare optional city groups/packages may prepare optional city trays whenever there are enough pieces for the same optional city listed in Exhibit 122.63a to fill a tray. Less-than-full optional city trays are not permitted. Optional city trays must be labeled as follows:

Line 1: Name of optional city in Exhibit 122.63a, two-letter state abbreviation, and lowest 5-digit ZIP Code served by the city.

Line 2: Contents (2C or NEWS) followed by "LTRS 3DG BARCODED" "LTR 3DG BARCODE" and directly under the ZIP Code on Line 1, "CITY" or "CTY".

Line 3: Mailer information (see 561.273b(3)).

Example

LA JOLLA CA—92037
NEWS LTR 3D BARCODE CTY
HARD TIME NEWS UNION SC

b. 3–Digit Trays. After preparing optional city trays (second-class only), if there are enough optional city (second-class only) and 3-digit groups/packages remaining to fill a tray for a 3-digit ZIP Code destination, a 3-digit tray must be prepared. Less-than-full 3-digit trays are not permitted. 3-digit trays must be labeled as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3–Digit ZIP Code Prefixes.*

Line 1: City, two-letter state abbreviation and unique 3-digit prefix listed in Exhibit 122.63b.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 3DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

KNOXVILLE TN—379
FCM LTRS 3DG BARCODED
LMM COMPANY FAIRFAX VA

(2) Other 3–Digit ZIP Code Prefixes.

Line 1: Name of SCF (letters "SCF" omitted) and two-letter state abbreviation of the SCF, followed by the 3-digit prefix of the pieces contained in the tray (See Exhibits 122.63c or 122.63d for the name of the SCF serving the 3-digit area).

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 3DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

NORTHERN VIRGINIA VA—221
NEWS LTRS 3DG BARCODED
ABC MAIL CO ROCHESTER NY

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 3DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

FPO AE—095
FCM LTRS 3DG BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit trays for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

c. SCF Trays. After preparing optional city trays (second-class only) and all possible 3-digit trays, if there are enough optional city (second-class only) and 3-digit groups/packages remaining for one of the SCFs listed in Exhibit 122.63d to fill a tray, an SCF tray must be prepared. Less-than-full SCF trays are not permitted. SCF trays must be labeled as follows:

Line 1: Letters "SCF," followed by the name of the SCF, the two-letter state abbreviation of the SCF, and the 3-digit SCF code as shown in Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS 3DG BARCODED".

Line 3: Mailer information (see 561.273b(3)).

Example

SCF SAN ANTONIO TX—780
2C LTRS 3DG BARCODED
ABC CO BAKERSFIELD CA

d. AADC Trays. After preparing optional city (second-class only) and all possible 3-digit and SCF trays, any remaining optional city (second-class only) and 3-digit groups/packages must be trayed to one of the AADCs listed in Exhibit 122.63t. The groups in both full and less-than-full AADC trays must be secured into optional city (second-class only) or 3-digit packages as appropriate under 561.11. Use of separator cards is not permitted in AADC trays. AADC trays must be labeled as follows:

Line 1: Applicable label information for the AADC shown in Exhibit 122.63t.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTR AADC 3D BARCODE".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS PROVIDENCE RI—028
FCM LTR AADC 3D BARCODE
NBT CO BAKERSFIELD CA

566.5 Tray Preparation—Residual/Basic Presort Tier

566.51 General. Residual/basic pieces are those pieces remaining after performing sortation under 566.3 (5-digit presort tier) and/or 566.4 (3-digit presort tier). Accordingly, except for certain First-Class mailings as provided in 566.132b, there are always fewer than 50 pieces for the same 3-digit ZIP Code area within the residual/basic portion of the mailing. Residual/basic pieces must be placed in trays separate from qualifying pieces, except as provided in 566.54. The traying requirements in 561.2 must be met. Residual/basic pieces must be prepared in accordance with one of the options listed in 566.52 through 566.54 below. Once the basic requirements in 566.52 through 566.54 have been met, additional sortation of

First-Class residual mail may be performed in accordance with any local authorization for acceptance times described in Management Instruction DM–140–91–01, *First-Class Mail Acceptance Policy*.

566.52 Option 1: ZIP Code Sequencing and Listing. Residual/basic pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. If the last tray is less than full, the pieces in the tray must be secured into and labeled as 3-digit packages under 561.11 and 561.131. In addition, full trays of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095" inch thick), of any class of mail, must be secured into and labeled as 3-digit packages under 561.11 and 561.131. Mailers must provide a listing by 3-digit ZIP Code area of the various rate qualification categories as described in 566.632. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, separate residual/basic trays must be prepared for the ZIP Code areas eligible for the destination BMC rate as provided in 624.722. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

566.53 Option 2: Physical Separation by Rate Qualification

566.531 Basic Tray Separations. Residual/basic pieces bearing correct ZIP+4 barcodes or delivery point barcodes must be separately trayed from residual/basic pieces that do not. Pieces not bearing ZIP+4 barcodes or delivery point barcodes must be further separated so that pieces bearing a correct (see 530) numeric ZIP+4 code in the address and meeting the requirements of 540 are separately trayed from other pieces. The trays must be physically grouped according to these separations when presented to the post office for verification.

566.532 Additional Tray Separations.

a. First-Class Nonidentical-Weight Metered or Precanceled Stamp Mailings. There is a different first ounce rate for pieces weighing over 2 ounces in First-Class Mail. Accordingly, in nonidentical-weight First-Class metered or precanceled stamp mailings in which there are both pieces weighing 2 ounces or less and pieces weighing over 2 ounces, and postage at the exact rate is not affixed to each piece, further tray separations must be made by pieces weighing over 2 ounces and pieces weighing 2 ounces or less for each of the three basic separations required in 566.531 above. The trays must be physically grouped according to these separations when presented to the post office for verification. Precanceled stamp mailings must meet the tray separation requirements in 566.5632b when postage to cover additional ounce increments is not affixed to each piece as permitted under 581.34 or 581.4.

b. First-Class Nonidentical Weight Precanceled Stamp Mailings in which Postage to Cover Additional Ounce Increments is Not Affixed. In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed under 581.34 or 581.4, further tray separations must be made by pieces of each ounce increment in the mailing for each of the three basic separations required in 566.531. The trays must be physically grouped according to these separations when presented to the post office for verification.

c. First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces. For metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, pieces weighing one ounce or less must be further separated so that postcard rate pieces are trayed separately from letter-rate pieces for each of the three basic separations required in 566.531. The additional tray separations in 566.532b may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

d. Second-Class Mailings Containing In-County and Outside County Pieces. Within second-class mailings containing both in-county and outside-county pieces, in-county pieces must be separately trayed from outside-county pieces for each of the three basic tray separations required in 566.531 above. The trays must be physically grouped according to these separations when presented to the post office for verification.

e. Third-Class Mailings Claiming Destination BMC Rates. In third-class mailings in which destination BMC rates are claimed and not all pieces in the residual/basic portion of the mailing qualify for the destination BMC rate, further tray separations by pieces within the BMC service area and pieces outside the BMC service area must be made for each of the three basic separations required in 566.531.

566.533 Separation Into Groups of 100 Pieces Within Each Tray. Within each of the trays resulting from sortation in accordance with 566.531 and 566.532, the pieces must be separated into groups of 100 pieces. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays of postcard-size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick), of any class of mail, must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of residual/basic trays, the actual number of pieces in the group must be written on the separator card. The total number of residual/basic pieces in each rate category must be added to the summary portion of the documentation required in 566.633.

566.534 Tray Labels. Option 2 residual/basic trays must be labeled as follows:

a. Trays Containing ZIP+4 Barcoded or Delivery Point Barcoded Pieces.

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code of the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "LTRS BARCODED WKG".

Line 3: Mailer information (see 561.273b(3)).

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

b. Trays Containing Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded Bearing Correct Numeric ZIP+4 Code in Address and Meeting Requirements of 540.

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C) followed by "ZIP+4 WORKING" (or "ZIP+4 WKG").

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS WILKES-BARRE PA—186
FCM ZIP+4 WORKING
EXETER CO DUPONT PA

c. Trays Containing Other Pieces Not ZIP+4 Barcoded or Delivery Point Barcoded

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: Appropriate Class or contents designation (FCM, 2C, NEWS, or 3C LTRS) followed by "WORKING" (or "WKG").

Line 3: Mailer information (see 561.273b(3)).

Example:

DIS WILKES-BARRE PA—186
NEWS WORKING
PUBLSH CO DUPONT PA

566.54 Option 3: Placement in AADC Trays of the 3-Digit Presort Tier Portion. Under this option, whenever there are residual/basic pieces for an AADC area for which an AADC tray was prepared within the 3-digit presort tier, the residual/basic pieces for that AADC area must be secured into and labeled as 3-digit packages and placed in the AADC tray with qualifying mail. Residual/basic pieces for 3-digit areas for which there is no corresponding AADC tray of qualifying mail in the 3-digit presort tier must be placed in ascending numeric 3-digit ZIP Code sequence within separate trays containing only residual/basic pieces as described in 566.52. Mailers must provide a listing by 3-digit ZIP Code area under the residual/basic presort tier section of the documentation as described in 566.633 of the various rate qualification categories for both the pieces placed in AADC trays and the pieces trayed in separate residual/basic trays. Trays containing only residual/basic pieces must be labeled as described in 566.52.

566.6 Documentation

566.61 Purpose. Documentation enables the Postal Service to verify the percentage of ZIP+4 barcoded pieces or delivery point barcoded pieces in the mailing. It also enables the Postal Service to verify the number of pieces claimed at each rate category on the mailing statement, and to verify that any difference between the amount of postage affixed to the pieces in the mailing, and the amount of postage owed for the pieces is paid. It does this by providing the Postal Service with a detailed description of what is being mailed, how it is prepared, the rate for which pieces qualify, and how many pieces have a ZIP+4 barcode or delivery point barcode. The USPS will compare the numbers shown on the mailer's documentation with counts of samples taken from the actual mailing to confirm that the information on the documentation is accurate.

Note: For second-class mailings, the documentation described in this section will provide the presort per piece rate documentation and the 85% ZIP+4 barcoded or delivery point barcoded documentation required in 424.841 and 424.843. Documentation in addition to the documentation described in 564.14 must be prepared for mailings of second-class publications as set forth in 424.84.

566.62 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 566.63, with the following exceptions:

a. No documentation is required when every piece in the mailing bears the correct ZIP+4 barcode or correct delivery point barcode and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 Barcoded rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

566.63 Information Required

566.631 Heading and General Format Requirements. The top of the first page of the documentation must show the class of mail and the words "DMM 566 Presort." When only some pieces in a third-class mailing qualify for a destination entry rate, or when a mailing contains pieces that qualify for more than one destination entry rate, a description of the characters used within the listing portion of the documentation to identify the ZIP Codes qualifying for each destination entry discount, must also appear at the top of the first page (see 566.632d(6)). The documentation must consist of ZIP Code listings for the 5-digit presort tier if applicable, the 3-digit presort tier, and the residual/basic presort tier (except for residual/basic pieces prepared under the physical separation option in 566.53) as described in 566.632, as well as a summary (566.633). The summary must include pieces prepared under the residual/basic physical separation option in 566.53. At the mailer's option, additional information showing the trays in which the pieces appear may also be included. It is recommended that the format in Exhibit 566.63 be used. If another format is used, it must allow Postal Service verification personnel to easily determine the information required by 566.632 and 566.633 using a single report. See 566.632f for an exception to the single report requirement for second-class mailings containing more than one edition and/or publication. Information that could not pertain to the class being mailed (such as column headings for Level A, Level B, Level J rates in a third-class mailing) must not be included in the documentation.

566.632 Required Information—ZIP Code Listing Portion

a. Presort Tier Sections. The ZIP Code listing portion of the documentation must be divided into sections by presort tier in the following order: 5-digit presort tier, 3-digit presort tier; and residual/basic presort tier (not required if residual/basic is prepared under the physical separation option in 566.53). Each presort level section must be preceded by a heading naming the presort tier (i.e., "5-Digit Presort Tier "3-Digit Presort Tier," and "Residual/Basic Presort Tier."

b. ZIP Code Column. Within each presort tier section, all ZIP Codes prepared in groups/packages to that presort tier must be listed under a column heading "ZIP Codes". The ZIP Codes must be listed in ascending numeric order. Within the 5-digit presort tier, pieces in qualifying 5-digit groups/packages must be listed by 5-digit ZIP Code. Within the 3-digit presort tier, pieces in qualifying 3-digit groups/packages must be listed by 3-digit ZIP Code, and pieces in second-class optional city groups/packages must be listed by lowest assigned 5-digit ZIP

Code as shown in Exhibit 122.63a. Within the residual/basic presort tier section (if applicable) the pieces must be listed by 3-digit ZIP Code.

c. Basic Columns and Line Entries for Rates and Totals. For each ZIP Code entry listed under each presort tier section, the documentation must show:

(1) The number of ZIP+4 barcoded or delivery point barcoded pieces under a column heading (or column headings—see 566.632d) naming the rate for which the pieces qualify based on the class of mail (see 566.21) and indicating that the pieces are ZIP+4 barcoded or delivery point barcoded.

(2) the number of non-ZIP+4 barcoded or non-delivery point barcoded pieces with a correct numeric ZIP+4 code (see 530) in the address meeting the requirements of 540, under a column heading (or column headings—see 566.632d) naming the rate for which the pieces qualify based on the class of mail (see 566.2) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. The documentation does not need to contain a column for these pieces if none appear in a mailing, or if the ZIP+4 rates are not claimed for such pieces. These pieces are not permitted in the 5-digit presort tier.

(3) the number of remaining pieces that are not ZIP+4 barcoded, delivery point barcoded or numerically ZIP+4 coded under a column heading (or column headings—see 566.632d) naming the rate for which the pieces qualify based on the class of mail (see 566.2) and indicating that the pieces are not ZIP+4 barcoded or delivery point barcoded. These pieces are not permitted in the 5-digit presort tier. (This column includes pieces with a 5-digit numeric ZIP Code as well as pieces without a ZIP+4 barcode or delivery point barcode that contain a correct numeric ZIP+4 code, but do not meet the OCR processing requirements in 540. It also includes pieces without a ZIP+4 barcode or delivery point barcode that contain a numeric ZIP+4 Code not matched against CASS certified software in accordance with 530.)

(4) the cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding ZIP Code entries within the same presort tier section of the documentation) under a column heading "Cumulative Total." (The totals accumulate for each presort tier section only.)

d. Additional Rate Columns or Line Rntries.

(1) *First-Class Metered or Precanceled Stamp Mailings Containing Pieces Both Over and Under 2 Ounces.* Within the residual/basic presort tier section of the documentation for metered and precanceled stamps mailings in which postage at the exact rate is not affixed, two rate columns, one for reporting pieces weighing less than 2 ounces and one for reporting pieces weighing 2 ounces or more must be shown for each of the basic column separations described in 566.632c(1), 566.632c(2), and 566.632c(3). Each column heading must contain the name of the residual rate (see 566.213) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. Precanceled stamp mailings in which postage to cover additional ounce increments is not affixed must meet the additional documentation requirements in 566.632d(2).

(2) *First-Class Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In First-Class mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34 or 581.4, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic column separations described in 566.632c(1), 566.632c(2), and 566.632c(3). Each rate column heading must show the name of the rate (see 566.2) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded.

(3) *First-Class Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within the residual presort tier section of the documentation for metered and precanceled stamp First-Class mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates, two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter rate must be shown for each of the basic column separations described in 566.632c(1), 566.632c(2), and 566.632c(3). The column headings must contain the name of the rate (see 566.213) for which the pieces qualify, the weight category, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded. The additional column separations in 566.632d(1) are also necessary for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34 or 581.4.

(4) *Second-Class Mailings Containing Both In-County and Outside-County Rate Pieces.* For second-class mailings containing both in-county and outside-county pieces, separate columns for in-county pieces and for outside-county pieces must be shown for pieces listed under 566.632c(1), 566.632c(2), and 566.632c(3). In addition, for 3-digit packages listed under the 3-digit presort tier section, separate columns for unique 3-digit packages that qualify for the level B3 or H3 rates, and for the level J3 rates must be shown, and separate columns for nonunique 3-digit packages that qualify for level A or G rates, and for level J1 rates must be shown, for each of the three general categories of pieces in 566.632c(1), 566.632c(2), and 566.632c(3). To reduce the number of columns across a page, mailers may break the 3-digit presort tier portion of the documentation into further sections by rate category: one section for optional city and unique 3-digit packages recorded at the level B3/H3 and J3 rates, and another section for nonunique 3-digit packages at the level A/G or J1 rates. The column headings must contain the name of the rate (see 566.222) for which the pieces qualify, and a statement as to whether or not the pieces are ZIP+4 barcoded or delivery point barcoded.

(5) *Second-Class Combined Mailings.* See 566.632f.

(6) *Third-Class Mailings Claiming Destination SCF or Destination BMC Rates.* In third-class mailings in which some combination of SCF destination entry, BMC destination entry, and no destination entry discount is claimed (not all pieces in the mailing qualify for the same destination discount) the ZIP Codes in each presort tier section that are eligible for the SCF entry discount or the BMC entry discount must be marked with an asterisk or some other unique character. If both the SCF discount and BMC discount are claimed in the same mailing, a different character from the one used to mark the ZIP Codes eligible for the SCF discount must be used to mark the ZIP Codes eligible for the BMC discount.

e. Section Column Totals. At the end of each presort tier section of the listing, show the total number of pieces listed under each rate column and under the cumulative total column.

f. Additional Requirements For Second-Class Combination Mailings. In addition to the documentation required by 566.63, second-class mailings combining pieces from more than one second-class publication or edition must

provide additional information by publication or edition as required by 424.853. This additional information may be provided as a separate report or reports.

566.633 Summary Portion

a. Second-Class Mailings and Identical Weight Permit Imprint Mailings.

(1) *Rate Categories and Postage Owed.* The summary must list each rate category at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. (For residual/basic mail sorted under the physical separation option in 566.53, information is also obtained from the manual counts of residual/basic pieces in the separate trays for each rate category.) When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The total number of pieces claimed at that rate.

(b) The applicable rate (price per piece) of postage.

(c) The postage charges for that rate category (the total number of pieces times the rate of postage).

Note: The applicable rate and postage charges are not required for second-class mailings.

(2) *Totals*

(a) A grand total of the postage charges for all the rate categories in the entire mailing must be shown (optional for second-class mailings). This grand total is the amount of postage owed for the mailing and the amount to be deducted from the advance deposit account for permit imprint mailings, or is the amount of second-class per piece charges for the mailing prior to deductions for the nonadvertising percentage discount and zone rate discounts.

(b) The total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

b. First- and Third-Class Metered and Precanceled Stamp Mailings.

(1) *Rate Categories and Postage Owed.* The summary must list each rate category at which any pieces in the mailing are claimed from the applicable column totals in the listing portions of the documentation. For residual/basic mail sorted under the physical separation option in 566.53, information is also obtained from the manual counts of pieces in the separate trays for each rate category. For nonidentical-weight First-Class precanceled stamp mailings in which stamps to cover the additional ounces are not affixed, each rate category must be listed more than once so that there is a separate listing for each ounce increment at that rate. First-Class postcard rate pieces must also be listed separately from letter-rate First-Class pieces. For First-Class metered mailings containing residual pieces over and under two ounces, each residual rate category must have a separate listing for pieces weighing 2 ounces or less and a separate listing for pieces weighing over 2 ounces. First-Class postcard rate pieces must also be listed separately from letter-rate First-Class pieces. When not all pieces in a third-class mailing qualify for the same destination entry discount, a separate line entry for the pieces claimed at each destination entry discount and for pieces not qualifying for a destination entry discount must be shown to separately account for the different rates in the summary. For each rate listed, the summary must show:

(a) The number of pieces claimed at that rate;

(b) The amount of additional postage due for each piece at that rate (when the amount of postage affixed is less than the rate of postage owed);

(c) The postage due for pieces claimed at that rate (the total number of pieces at that rate category times the amount of postage due per piece).

(2) *Totals.*

(a) A grand total of the additional postage charges due for all the rate categories in the entire mailing must be shown. This grand total is the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account.

(b) The total number of pieces in the mailing that bear a ZIP+4 or delivery point barcode, the total number of pieces that do not, and the total of both representing all pieces in the mailing must be shown.

(c) The percentage of ZIP+4 or delivery point barcoded pieces in the mailing must be shown.

566.7 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 566 Presort" at the top of the mailing statement.

567 OPTION 2—THREE TIER PACKAGE-BASED ZIP+4 BARCODED RATE MAILINGS (AVAILABLE ONLY THROUGH MARCH 20, 1993)

567.1 General Requirements

567.11 Description of a Mailing. A single ZIP+4 Barcoded rate mailing prepared under 567 may be made up of three presort tiers: (1) the 5-digit presort tier (containing 5-digit packages); (2) the 3-digit presort tier (containing 3-digit packages and, if applicable, second-class optional city packages); and (3) the residual/basic tier (remaining pieces). The 5-digit presort tier is optional. See 567.12 for a further description of presort tiers. Rates for pieces in the mailing are based upon the type of package in which they are placed. See 567.2 for a detailed description of the rates for which pieces in presort tiers can qualify. A single mailing may, at the mailer's option:

a. Include all three tiers;

b. Contain only a 3-digit presort tier and a residual/basic tier;

c. Contain only a 5-digit presort tier;

d. (First-Class mailings only) contain only a 5-digit presort tier and a residual tier;

e. (First-Class mailings only) contain only a residual tier.

f. (Second- and third-class mailings) contain only a residual tier if the conditions in 567.132a are met.

567.12 Description of Presort Tiers. [Insert current 564.12. Change the reference "564.132" to "515.32".]

[*Delete current 564.13. Insert the following:*]

567.13 Hierarchy of Presort

567.131 Mailings Containing 5-Digit and 3-Digit Presort Tiers. Since the 5-digit presort tier must be prepared only if 5-digit ZIP+4 Barcoded rates are claimed, mailers need not prepare all possible 5-digit packages in the 5-digit presort tier before going on to prepare the 3-digit presort tier. Mailers may prepare 5-digit packages to only selected 5-digit ZIP Code areas in the 5-digit presort tier. When a mailing contains 5-digit packages for a ZIP Code area, not all pieces for that ZIP Code area are required to be placed in 5-digit packages in the 5-digit presort tier. The mailer may elect to place some pieces for that 5-digit ZIP Code area in the 3-digit presort tier and pay a higher rate. In all cases, however, each 5-digit package in the 5-digit presort tier must contain at least 10 ZIP+4 or delivery point barcoded pieces (see 567.31 and 515.32).

Example: A mailing contains 150 pieces for ZIP Code 22033, of which 135 are delivery point barcoded, and 15 are not barcoded but contain a 5-digit ZIP Code. The same mailing

contains 30 pieces (28 delivery point barcoded and 2 nonbarcoded with a 5-digit ZIP Code) for other ZIP Codes with a 220 ZIP Code prefix. The mailer elects to prepare 5-digit packages to 22033. The 15 pieces to 22033 that do not contain a barcode cannot be included in the 5-digit presort tier and are dropped down to the 3-digit presort tier. These 15 pieces, when added to the 30 pieces for other ZIP Codes within 220, equal 45 pieces for the 3-digit area 220. Since 50 pieces are needed to make up a 3-digit package, the mailer may elect to take 5 pieces from 22033 and move them to the 3-digit presort tier. This will result in a total of 130 pieces for 22033 in the 5-digit presort tier and 50 pieces for 220 in the 3-digit presort tier.

567.132 Mailings containing 3-Digit and Residual Presort Tiers.

a. Required for Second- and Third-Class Mailings. All package-based second- and third-class ZIP+4 Barcoded rate mailings must contain both a 3-digit presort tier and a residual presort tier. Within these mailings, all possible 3-digit packages of 50 or more pieces to the same 3-digit area must be prepared and placed in the 3-digit presort tier, before the residual presort tier is prepared. For second-class mailings, optional city packages of 50 or more pieces may also be made, at the mailer's option, and on a selected basis, prior to preparing 3-digit packages. The only instance in which a residual presort tier may be submitted by itself as a second- or third-class mailing is if the mailer attempted to perform 3-digit package sortations, but there were no groups of 50 or more pieces for any 3-digit ZIP Code area in the mailing.

b. First-Class Mailings. Since the residual portion of a First-Class mailing is paid for at single-piece rates, mailers are not required to prepare all possible 3-digit packages of 50 or more pieces to the same 3-digit area and tray them within the 3-digit presort tier before going on to prepare the residual presort tier. That is, the residual portion of a First-Class mailing may contain groups of 50 or more pieces for the same 3-digit ZIP Code area.

567.2 Rate Eligibility. [Insert 564.2. Renumber subsections accordingly. Renumber all references "564.3" as "567.". Renumber all references "564.4" as "567.4". Renumber all references "564.5" as 567.5".]

567.3 Sortation Requirements—5-Digit Presort Tier

567.31 Minimum Quantity per 5-Digit Area. [Insert current 564.31.]

567.32 Grouping and Packaging Requirements

[Insert current 564.32. Renumber all subsections accordingly. Renumber all references "561.422" as "561.232". Renumber all references "561.22" as "561.11". Renumber all references "561.222" as "561.131".]

567.33 Traying Requirements—5-Digit Presort Tier

567.331 General. The requirements in 561.2 must be met.

567.332 Tray Sortation

a. 5-Digit Trays. [Insert current 564.332a. Change the reference "561.43" to "561.24." Change the label information and add a note to the end of this section as follows:

(1) *Nonmilitary Mail.*

[Insert current label information from 564.332a.]

(2) Military Mail.

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPs 340) or AP (for ZIPS 962–966), and complete 5-digit APO or FPO ZIP Code.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) followed by "5DG Z+4 BARCODED" or "5DG Z+4 B/C".

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example

APO AE—09128
FCM 5DG Z+4 BARCODED
NB COMPANY UNION SC

b. 3-Digit Trays. [Change the reference "564.322" to "567.322". Change the reference "564.43" to "561.24." Add the following qualifier to existing tray label information and add new tray label information for military mail as follows:

(1) *Nonmilitary Mail.*

(a) *Unique 3-Digit ZIP Code Prefixes.*

[Insert label information in current 564.332b(1).]

(b) *Other 3-Digit ZIP Code Prefixes.*

[Insert label information in current 564.332b(2).]

(2) *Military Mail*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) "5DG Z+4 BARCODED" or "5DG Z+4 B/C".

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example

FPO AE—095
FCM 5DG Z+4 BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit sacks for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. Example: APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

d. SCF Trays. Revise all references beginning with "564" to "567." Change all references "561.22 to "561.11." Add the following note after the label information:

Note: When there is no SCF listed for a given 3-digit area in Exhibit 122.63d, (such as military mail and the Virgin Islands) mailers must place such pieces in an tray labeled on the top line in accordance with Exhibit 122.63t. The second and third lines of tray labels for such trays are the same as those for SCF trays described above.

567.4 Sortation Requirements—3-Digit Presort Tier

567.41 Minimum Quantity per 3-Digit Area. [Insert current 564.41. Change the reference "564.522" to "567.522".

567.42 [Grouping and Packaging Requirements. Insert current 564.42. Renumber subsections accordingly. Change all internal references beginning with "564" to references beginning with "567". Change all references "561.422" to "561.232". Change all references "561.22" to "561.11". Change all references' "561.43" to "561.24". Change all references "561.221" to "561.11". Change all references "561.222" to "561.131".]

567.43 Traying Requirements

567.431 General. The requirements in 561.2 must be met.

567.432 Tray Sortation.

a. 3-Digit Trays. Change the reference "564.421" to "567.421." Add the following qualifier to existing tray label information and add new tray label information for military mail as follows:

(1) Nonmilitary Mail.

(a) *Unique 3-Digit ZIP Code Prefixes.*

[Insert label information in current 564.432a(1).]

(b) *Other 3-Digit ZIP Code Prefixes.*

[Insert label information in current 564.432a(2).]

(2) *Military Mail.*

Line 1: APO or FPO, followed by AE (for 3-digit ZIP Code prefixes 090–098), AA (for ZIPS 340) or AP (for ZIPs 962–966), and 3-digit APO or FPO ZIP Code prefix.

Line 2: Appropriate class or contents designation (FCM, 2C, NEWS, or 3C) "3DG Z+4 BARCODED" or "3DG Z+4 B/C".

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example

FPO AE—095
FCM 3DG Z+4 BARCODED
XYZ CORP ROCHESTER NY

Note: ZIP Code prefixes 094, 096–098, 340, and 962–965 contain both APO and FPO addresses. Therefore, the destination line for 3-digit sacks for destinations containing both APO and FPO mail must show the prefix APO/FPO before the code and the 3-digit prefix. *Example:* APO/FPO AA 340. (All 3-digit trays for ZIP Code prefixes 090–093 must be labeled APO, and 3-digit trays for ZIP Code prefixes 095 and 966 must be labeled FPO.)

b. SCF Trays. Change all internal references beginning with "564" to references beginning with "567". Change reference "561.22" to "561.11 and 561.131." Add the following note to the end of this section:

Note: When there is no SCF listed for a given 3-digit area in Exhibit 122.63d, (such as military mail and the Virgin Islands) mailers must place such pieces in an tray labeled on the top line in accordance with Exhibit 122. 63t. The second and third lines of tray labels for such trays are the same as those for SCF trays described above. Pieces in such trays are not eligible for SCF entry discounts.

567.433 Optional Tray Sortation for Second-Class Mailings Only. [Insert text of current 564.433. Change all internal references beginning with "564" to references beginning with "567". In the next to last sentence of 567.433b, before the tray label information, delete the phrase "except that one overflow tray per optional city is permitted as provided in 561.44."]

567.5 Sortation Requirements—Residual/Basic Presort Tier

567.51 Definition of Residual/Basic Pieces. [Insert current 564.51. Revise all references beginning with "564" to "567." Add the following as the last two sentences. "See 567.132b for an exception for First-Class Mail. Residual/basic pieces must be prepared under 565.52, 565.53, or 565.54. Once the basic requirements in 565.52 through 565.54 have been met, additional sortation of First-Class residual mail may be performed in accordance with any local authorization for acceptance times as described in Management Instruction DM–140–91–01, First-Class Mail Acceptance Policy.

567.52 Option 1: ZIP Code Sequencing and Listing. [Insert current 564.521. Replace the first sentence with the following: "Residual pieces for the same 3-digit ZIP Code area must be grouped together. Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence.]

567.53 Option 2: Physical Separation. [Insert current 564.523. Add the following as the third sentence "Additional tray separations may be required as set forth in 566.532 to accurately account for postage." Change all references "561.3" to "561.12". Change all references "561.221" to "561.11". Change the reference "564.625" to "567.625".]

567.54 Option 3: Placement in SCF Trays of the 3-Digit Presort Tier. [Insert text of current 564.522. Change the reference "564. 432b" to "567.432b".]

567.6 Documentation

567.61 General Requirements for Submission. Each mailing must be accompanied by the documentation described in 567.62, with the following exceptions:

a. No documentation is required when every piece in the mailing bears the correct ZIP+4 barcode or delivery point barcode and either of the following applies:

(1) Postage is affixed to each piece at the exact rate of postage for which it qualifies.

(2) Each piece in the mailing is of identical weight, the pieces in each individual tray are subject to the same rate, and the trays for each rate level are placed in groups by rate eligibility when presented for verification to allow weight verification of postage. (Second-class mailings containing both in-county and outside-county pieces and/or containing both Level A and Level B rates do not meet this condition.)

b. Abbreviated documentation may be submitted under the provisions of 568.1.

c. Documentation that describes all ZIP+4 Barcoded rate mailings to be made from a mailing job may be submitted with the first mailing of a mailing job in accordance with 568.2.

567.62 Information Required

567.621 Format. [Insert current 564.621. Change all references beginning with "564" to references beginning with "567". Add the following as the next to last sentence: "See 566.632d and 566.632f, for additional columns in the 5-digit, 3-digit, and residual/basic presort tier listings respectively that may be required for pieces qualifying for each rate category."

567.622 Information Required for 5-Digit Presort Tier Sorted Under 567.3. [Insert current 564.622.]

567.623 Information Required for 3-Digit Presort Tier Sorted Under 567.4. [Insert current 564.623. Change all references beginning with "564" to references beginning with "567".]

567.624 Information Required for Residual/Basic Presort Tier Sorted Under 564.5 [Insert current 564.624. Renumber subsection "b" as "c" and vice versa. Change all references beginning with "564" to references beginning with "567".]

567.625 Summary Portion. [Insert current 564.625. Change all references beginning with "564" to references beginning with "567".]

567.7 Mailing Statement. Each mailing must be accompanied by a complete and signed mailing statement appropriate for the method of postage payment and class of mail submitted. Mailers must write "DMM 567 Presort" at the top of the mailing statement.

568—ELECTIVE DOCUMENTATION FOR PRESORT RATE MAIL

568.1—Abbreviated Documentation for Postage and Percentage of ZIP+4 or Delivery Point Barcode Pieces

568.11 Authorization Procedure

568.111 Letter of Request. Mailers must submit a written letter of request for authorization to submit with each mailing the abbreviated documentation described in this section rather than complete documentation described for the type of mailing in 562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, or 567.6, as applicable. The letter must be sent to the postmaster of the post office where the mailings are verified and postage is paid.

568.112 Authorization. Upon receipt of the letter of request, the postmaster or authorized representative will verify a subsequent mailing for which complete documentation is submitted. If the complete documentation is found to contain all the information required in 562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, or 567.6, as applicable, and is found to be correct when the mail is sampled and compared to the documentation, the postmaster will authorize use of abbreviated documentation procedures. The authorization is good for a period of one year and will be provided to the mailer in writing. If the complete documentation does not contain all the information required in 562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, or 567.6, as applicable, or is found not to be correct when compared to mail sampled, the request will be denied in writing. The written denial will state the deficiencies that must be corrected. The mailer may submit another request for abbreviated documentation authorization when the deficiencies noted have been corrected.

568.12 Requirement. The mailer must submit the summary section for the documentation required in 562.145, 562.252a(3), 562.252b(3), 563.533, 564.145, 564.242a(3), 564.242b(3), 565.533, 566.633, or 567.625 as applicable. In addition, those portions of the ZIP Code listings described in 562.144, 562.252a(2), 562.252b(2), 563.532, 564.144, 564.242a(2), 564.242b(2), 565.532, 566.632, 567.622, 567.623, and 567.624, as applicable for the method of preparation, that pertain to pieces destinating at a particular SCF area, must also be submitted. The SCF area selected by the mailer should include pieces qualifying for all rate levels in the mailing (both 3/5 ZIP+4 and basic/residual rates for ZIP+4 rate mailings; 5-digit ZIP+4 Barcoded (if applicable), 3-Digit ZIP+4 Barcoded, and residual/basic rates for ZIP+4 Barcoded rate mailings). If the selected SCF area does not contain pieces at all applicable rate levels included in the mailing, the ZIP Code listings for an additional SCF area that contains pieces qualifying for the missing rate levels must be provided with the mailing. A minimum of 3 trays must be represented by the documentation submitted. In addition, a listing of the column titles and column totals for each section of the ZIP Code listing or listings required by the individual method of preparation must be provided.

Note: Nothing in this section shall relieve the mailer from the requirement to submit, at the request of the postmaster, additional documentation including documentation pertaining to pieces that destinate at particular SCFs specified by the postmaster.

568.13 Tray Presentation. When the mailing is presented for verification and either acceptance or clearance for dispatch, the sacks that contain the pieces corresponding to the ZIP Codes of the selected SCF area or areas for which the ZIP Code listings are submitted must be identified and physically separated.

568.14 [Reserved]

568.15 Retention of Documents. Mailers authorized to submit abbreviated documentation must retain the information necessary to produce complete documentation for each mailing made during the past 12 months. Mailers must also be able to produce complete documentation of a particular mailing upon request by the postmaster, for either upcoming mailings or for past mailings.

568.16 Reauthorization and Review. Before the 1-year authorization expires, the postmaster or designee must schedule a review of complete documentation with the mailer. If the complete documentation is found to be accurate, the postmaster or designee will issue a written authorization to continue use of abbreviated documentation for another year. If the documentation is found to be inaccurate, complete documentation must be submitted for subsequent mailings until the problem is corrected and the mailer is again authorized to submit abbreviated documentation. A review of complete documentation must also be scheduled and performed by the postmaster or authorized representative anytime there is a change in the presort or documentation requirements for letter-size mailings.

568.2 Mailing Job Provisions for Meeting the 85% ZIP+4 Barcode and Form 3553 Requirements

568.21 Purpose. At the mailer's option, compliance with the requirement that at least 85% of the pieces bear a correct ZIP+4 or delivery point barcode may be based upon all letter-size ZIP+4 rate or all ZIP+4 Barcoded rate mailings within a mailing job when the mailing job meet the criteria in 568.22. In addition, one Form 3533 for all ZIP+4 rate or all ZIP+4 Barcoded rate mailings in the mailing job may be submitted.

568.22 Eligible Mailing Jobs

568.221 Definition of Mailing Job. Often referred to as a mailing cycle, mailing project, or publication issue, a mailing job consists of the total pieces meant to be mailed as an entity from a fixed set of addresses. These addresses may be from a single list or multiple lists that have been merged into a single list for the purposes of mailing. A mailing job may consist of only presorted ZIP+4 rate mailings, of only presorted ZIP+4 Barcoded rate mailings, or a combination of automation rate mailings, carrier route mailings, ⅗ and basic presort mailings. If carrier route or other nonautomation-based rate mailings are included in the job, the pieces in the nonautomation-based rate mailings must not be counted toward the 85% ZIP+4 code or 85% ZIP+4 barcode requirement regardless of whether the nonautomation-based rate mailpieces have been ZIP+4 coded or ZIP+4 barcoded. Similarly, if ZIP+4 rated pieces are contained in the same job as ZIP+4 barcoded rate pieces, only presorted ZIP+4 rate mailings in the mailing job may be counted toward the 85% ZIP+4 code requirement in 514.3, and only pieces in presorted ZIP+4 Barcoded rate mailings in the mailing job may be counted toward the 85% requirement in 515.3.

568.222 Verification and Payment at a Single Post Office. To be eligible for the option of submitting the 85% ZIP+4 barcode documentation and a single Form 3553 based on all the presorted ZIP+4 rate mailings, or based on all the presorted ZIP+4 Barcoded rate mailings in a mailing job (as opposed to the 85% requirements being separately applied to each individual mailing within the mailing job), all mailings in the job MUST be verified and paid for at a single post office. Mailing jobs containing mailings being entered at multiple destination post offices that are verified and paid for at a single post office under a Centralized Postage Payment (CPP) System or Plant-Verified Drop Shipment (PVDS) are eligible for this option.

568.23 Postage and 85% ZIP+4 Code or ZIP+4 Barcode Documentation for Mailing Job Option

568.231 Submission. Complete documentation that represents all pieces within ZIP+4 rate mailings for the entire mailing job, or complete documentation that represents all pieces within ZIP+4 Barcoded rate mailings for the entire mailing job must be submitted with the first automation-based rate mailing from that mailing job. The documentation must meet the requirements of 562.14, 562.25 or 563.5 as appropriate for ZIP+4 rate mailings. The documentation must meet the requirements of 564.14, 564.24, 565.5, 566.6, or 567.6 as appropriate for ZIP+4 Barcoded rate mailings. The abbreviated documentation in 568.1 may also be authorized for mailing jobs documented under 568.233. The documentation must meet the requirements of either 568.232 or 568.233.

568.233 Single Listing Representing All Mailings in the List or Cycle. A single ZIP Code listing (or listings where applicable) for all the ZIP+4 mailings in a job or for all the ZIP+4 Barcoded rate mailings in a job may be prepared if all of the following conditions are met:

(a) All mailings in the mailing job are accepted for entry at the same post office at which they are verified (mailings submitted under centralized postage payment and plant verified drop shipment are NOT authorized to use this method).

(b) The same method of preparation is used for all automation rate mailings in the mailing job (for example, all mailings in the job are prepared under 565).

(c) All the pieces listed on the same line for a particular ZIP Code on the documentation must be presented in the same mailing. For example, if the documentation shows 1082 pieces for ZIP Code 101 under the ⅗ Presort Tier

of a package-based ZIP+4 Barcoded rate mailing under 565, all 1082 pieces for ZIP Code 101 must be submitted on the same day as part of one mailing. If the mailing is a tray-based mailing under 562 or 564, and the tray label documentation option is used for tray-based mailings, a unique sequential tray label must be used for each tray presented during the entire mailing list or cycle. For example, if tray numbers 001 through 120 are used for the mailing on day 1, the tray labels for the mailing on day 2 must start at 121 and so forth.

(d) The abbreviated documentation in 568.1 must not be used.

(e) An overall summary in the format required for the method of preparation is submitted that summarizes the rate information and either the ZIP+4 code information or the ZIP+4 barcode information for all pieces in all mailings entered over the entire mailing job.

568.234 Separate Documentation Representing Each Mailing. Separate documentation for each individual ZIP+4 rate mailing or each individual ZIP+4 barcoded rate mailing that is prepared over the course of the mailing job must be prepared in accordance with 562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6 or 567.6, as applicable (both ZIP Code listings and summaries). The abbreviated ZIP Code listing documentation in 568.1 may also be authorized. In addition, a separate overall summary in the format required for the method of preparation must be submitted that summarizes the rate information and summarizes either the ZIP+4 code information or the ZIP+4 barcode information for all pieces in all mailings entered over the entire mailing job.

568.24 Mailing Statements in a Mailing Job. Each mailing submitted as part of a mailing job must be accompanied by the appropriate mailing statement for its class and method of postage payment.

568.25 Simultaneous Mailings From Different Mailing Jobs. If more than one mailing job is active at one time for a given mailer, mailings from each mailing job must be prepared and presented separately, and must be clearly identified as separate mailings from separate jobs. The documentation must contain an identifier that clearly distinguishes between the mailing jobs. Mailing statements presented for individual mailings within the mailing job must bear the appropriate identifier relating it to the appropriate mailing job.

568.26 Resolution of Discrepancies. When the last mailing from a mailing job is presented to the Postal Service, any discrepancies between the mail presented to and verified by the Postal Service, the mail described in the documentation, and the mail claimed on the corresponding mailing statements submitted for individual mailings (in regard to quantity, rate eligibility, or postage) must be reconciled to the satisfaction of the Postal Service, and any additional postage that may be due must be paid by the mailer.

569 FIRST-CLASS NONPRESORTED ZIP+4 RATE AND NONPRESORTED ZIP+4 BARCODED RATE MAILINGS

569.1 First-Class Nonpresorted ZIP+4 Rate Mailings (Required March 21, 1993, Optional Until Then)

569.11 Rate Eligibility. Pieces bearing correct ZIP+4 codes can qualify for the nonpresorted ZIP+4 rates. Pieces bearing 5-digit ZIP Codes can qualify for single-piece First-Class rates.

569.12 Packaging, Traying and Documentation

569.121 Mailings Containing 100% ZIP+4 Coded Pieces That Are Identical Weight, or Have Exact Postage Affixed to Each Piece.

a. ZIP Code Grouping and Packaging.

(1) *Postcard-Size Pieces.* Trays of pieces that fall within the dimensions for postcards (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick) must be packaged. No sortation or labeling of these packages is required.

(2) *Letter-Size Pieces That Exceed the Maximum Dimensions for Postcards.* Full trays of pieces that are larger than the dimensions of postcards must not be packaged. If the last tray is less than full, the pieces in that tray must be secured together into packages as provided in 561.11. No sortation or labeling of these packages is required.

b. Traying. The general requirements in 561.2 must be met. Pieces may be placed in trays without regard to ZIP Code order. Trays must be full except for the last tray. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM Z+4 WORKING

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example:

DIS BAKERSFIELD CA—932
FCM ZIP+4 WORKING
NBT CO BAKERSFIELD CA

c. Documentation Requirements. None.

569.122 Mailings Containing Both ZIP+4 and 5-digit ZIP Coded Pieces and/or Requiring Postage Documentation

a. General. Mailings meeting one or more of the following criteria must be prepared in accordance with either 569.122b (ZIP Code sequencing and listing option) or 569.122c (physical separation option).

(1) Mailings containing both ZIP+4 coded and 5-digit ZIP Coded pieces.

(2) Mailings paid by meters or precanceled stamps that do not have postage affixed to each piece at the exact rate for which it qualifies.

b. ZIP Code Sequencing and Listing Option.

(1) *ZIP Code Grouping and Packaging.* Pieces for the same 3-digit ZIP Code area must be grouped together. In less than full trays the pieces must be secured into 3-digit packages and labeled (see 561.11 and 561.131). Full trays of post-card size pieces (pieces measuring not more than 4¼ inches high, 6 inches long, and .0095 inch thick) must be secured into 3-digit packages and labeled (see 561.11 and 561.131). No packaging or labeling is permitted for full trays of pieces that exceed the dimensions for postcards.

(2) *Traying.* Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM ZIP+4 WORKING

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example:

DIS BAKERSFIELD CA—932
FCM ZIP+4 WORKING
NBT CO BAKERSFIELD CA

(3) *Documentation.* The format detailed below must be followed. At the top of the documentation the phrase "First-Class Nonpresorted ZIP+4" must be written. Each 3-digit ZIP Code contained in the mailing must be listed in ascending numeric order.

(a) *Basic Listing.* For each 3-digit ZIP Code listed show:

(i) The number of pieces that bear a ZIP+4 code under a column heading "Nonpresorted ZIP+4 Rate."

(ii) The number of pieces that do not bear a correct ZIP+4 code under a column heading "Single Piece Rate."

(iii) The cumulative total (the total of all pieces listed for that ZIP Code plus

all pieces listed for the preceding 3-digit ZIP Code areas under a column heading "Cumulative Total."

(b) *Additional Columns.*

(i) *Nonidentical-Weight Precanceled Stamp Mailings in Which Postage to Cover Additional Ounce Increments is Not Affixed.* In mailings paid by precanceled stamps that contain pieces of more than one ounce increment and in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed as permitted in 581.34, additional rate columns for reporting each ounce increment in the mailing must be shown for each of the basic rate column separations described in 569.122b(3)(a). Each rate column heading must show the name of the rate (see 569.11) for which the pieces qualify, the weight category, and a statement as to whether or not the pieces are ZIP+4 coded.

(ii) *Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* Within metered and precanceled stamp mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates (the letter rate must be affixed to letters and the postcard rate must be affixed to the postcards), two columns, one for reporting pieces at the postcard rates and one for reporting pieces at the letter rate must be shown for each of the basic column separations described in 569.122b(3)(a). The column headings must contain the name of the rate (see 569.11) for which the pieces qualify, the weight category, a statement as to whether the pieces are subject to postcard or letter rates, and a statement as to whether or not the pieces are ZIP+4 coded. The additional column separations in 569.122b(3)(b)(i) are also necessary for precanceled stamp mailings in which postage to cover additional ounce increments is not affixed to each piece in the mailing as permitted under 581.34.

(c) *Column Totals.* At the end of the listing show the totals of the pieces under each column heading.

(d) *Summary.*

(i) *Rate Categories and Postage Owed.* List any rate amount in the mailing at which pieces are claimed from the applicable column totals in the listing. The list should be by the name of the rate (Nonpresorted ZIP+4 rate and single piece rate) and any additional identifier needed such as ounce increment, and whether the piece qualifies for the postcard rate. For each rate category (amount) show the total number of pieces claimed from the applicable column totals in the listing portion of the documentation. For each rate category in permit imprint mailings, show the rate of postage for each piece and the total postage due for all pieces claimed at that rate (the number of pieces times the rate of postage). For each rate category in metered or precanceled stamp mailings, show the amount of additional postage due for each rate category (if any) and the total postage due for all pieces claimed at that rate (the total number of pieces at that rate category times the amount of postage due per piece).

(ii) *Totals.* A grand total of the postage charges due for all the rate categories in the entire mailing must be shown. This grand total shows the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account. The summary must also list the total number of pieces in the mailing that bear a ZIP+4 code and show the total number of pieces that do not. The percentage of ZIP+4 coded pieces in the mailing must be shown.

c. Physical Separation Option.

(1) *ZIP Code Grouping and Packaging.* No grouping/packaging is required in full trays of pieces exceeding the maximum dimensions for postcards (4¼ inches high, 6 inches long, and .0095 inch thick). In trays of pieces that do not exceed the maximum dimensions for postcards and in all less than full trays, pieces must be secured together into packages as provided in 561.11.

(2) *Traying.*

(a) *Basic Tray Separations.* Pieces bearing correct (see 530) ZIP+4 codes must be separately trayed from other pieces. The trays must be physically grouped according to these separations when presented to the post office for verification.

(b) *Additional Tray Separations.*

(i) *Nonidentical Weight Precanceled Stamp Mailings in which Postage to Cover Additional Ounce Increments is Not Affixed.* Mailings paid by precanceled stamps that contain pieces of more than one ounce increment in which precanceled stamps to cover postage for the additional ounce or ounces is not affixed under 581.34, further tray separations must be made by pieces of each ounce increment in the mailing for each of the two basic separations required in 569.122c(2)(a). The trays must be physically grouped according to these separations when presented to the post office for verification.

(ii) *Mailings Containing Both Letter-Rate and Postcard-Rate Pieces.* For metered and precanceled stamp mailings in which pieces do not have postage affixed at the exact rate and that contain both pieces subject to the letter rates and pieces subject to the postcard rates (the letter rate must be affixed to the letters and the postcard rate must be affixed to the postcards), pieces weighing one ounce or less must be further separated so that postcard-rate pieces are further separated from letter-rate pieces for each of the two basic separations required in 569.122c(2)(a). The additional tray separations in 569.122c(2)(b)(i) may also be necessary for precanceled stamp mailings. The trays must be physically grouped according to these separations when presented to the post office for verification.

(c) *Separation Into Groups of 100 Pieces Within Each Tray If Nonidentical Weight.* If the pieces in the mailing are of nonidentical weight (metered or precanceled stamp mailings only) they must be separated into groups of 100 pieces within each of the trays resulting from sortation in accordance with 569.122c(2)(a) and 569.122c(2)(b). The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays consisting entirely of pieces that do not exceed the maximum dimensions for postcards (4¼ inches high, 6 inches long, and .0095 inch thick) must be secured into packages as provided in 561.11. When there are less than 100 pieces in a group at the end of the last tray for any of the types of trays the actual number of pieces in the group must be written on the separator card. Trays must be labeled as follows:

(i) *Trays Containing ZIP+4 Coded Pieces.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM ZIP+4 WORKING

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example:

DIS BAKERSFIELD CA—932
FCM ZIP+4 WORKING
NBT CO BAKERSFIELD CA

(ii) *Trays Containing Pieces Not ZIP+4 Coded.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: FCM WORKING.

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example

DIS BAKERSFIELD CA—932
FCM WORKING
NBT CO BAKERSFIELD CA

(3) *Documentation Requirements.* None.

569.13 Presentation of Trays. Trays do not have to be presented in any order in mailings that are 100% ZIP+4 coded or in mailings containing both ZIP+4 coded and 5-digit coded pieces that are prepared under the ZIP Code sequencing and listing option. Trays must be grouped by rate category at the time of acceptance when the physical separation option is used to prepare mailings containing 5-digit ZIP Coded pieces.

569.2 First-Class Nonpresorted ZIP+4 Barcoded Rate Mailings

569.21 Rate Eligibility. Pieces bearing correct ZIP+4 barcodes or delivery point barcodes can qualify for the nonpresorted ZIP+4 rates. Pieces without a ZIP+4 barcode or delivery point barcode can qualify for the nonpresorted ZIP+4 rate if they bear the correct numeric ZIP+4 code in the address and meet the requirements of 540. Other pieces can qualify for single-piece First-Class rates.

569.22 Packaging, Traying, and Documentation Requirements

569.221 Mailings Containing 100% ZIP+4 Barcoded or Delivery Point Barcoded Pieces That are Identical Weight, or Have Exact Postage Affixed to Each Piece.

a. ZIP Code Grouping and Packaging Requirements.

(1) *Postcard-Size Pieces.* Trays of pieces that fall within the dimensions for postcards (pieces measuring not more than 4-¼ inches high, 6 inches long, and .0095 inch thick) must be packaged. No sortation or labeling of these packages is required.

(2) *Letter-Size Pieces That Exceed the Maximum Dimensions for Postcards.* Full trays of pieces that are larger than the dimensions of postcards must not be packaged. If the last tray is less than full the pieces in that tray must be secured together into packages as provided in 561.11. No sortation or labeling of these packages is required.

b. Traying. The general requirements in 561.2 must be met. Pieces may be placed in trays without regard to ZIP Code order. Trays must be full except for the last tray. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d.

Line 2: FCM LTRS BARCODED WKG.

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

c. Documentation. None.

569.222 Mailings Containing Non-ZIP+4 Barcoded or Non-Delivery Point Barcoded Pieces and/or Requiring Postage Documentation

a. General. Mailings meeting one or more of the following criteria must be prepared in accordance with either 569.222b (ZIP Code sequencing and listing option) or 569.222c (physical separation option).

(1) Mailings containing non-ZIP+4 barcoded or non-delivery point barcoded pieces.

(2) Mailings paid by meters or precanceled stamps that do not have postage affixed to each piece at the exact rate for which it qualifies.

b. ZIP Code Sequencing and Listing Option.

(1) *ZIP Code Grouping and Packaging.* Pieces for the same 3-digit ZIP Code area must be grouped together. In less-than-full trays, the pieces must be secured into 3-digit packages and labeled (see 561.11 and 561.131). Full trays of post-card size pieces (pieces measuring not more than 4¼ inches high by 6 inches long by .0095 thick) must be secured into 3-digit packages and labeled (see 561.11 and 561.131). No packaging or labeling is permitted for full trays of pieces that exceed the dimensions for postcards.

(2) *Traying.* Groups of pieces for the same 3-digit ZIP Code area must be placed in trays in ascending numeric 3-digit ZIP Code sequence. Trays must be labeled as follows:

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM LTRS BARCODED WKG

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example

DIS BAKERSFIELD CA 932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

(3) *Documentation.* The format detailed below must be followed. At the top of the documentation the phrase "First-Class Nonpresorted ZIP+4 Barcoded" must be written. Each 3-digit ZIP Code contained in the mailing must be listed in ascending numerical order.

(a) *Basic Listing.* For each 3-digit ZIP Code listed show:

(i) The number of pieces that bear a ZIP+4 barcode or delivery point barcode under a column heading "Nonpresorted ZIP+4 Barcoded Rate."

(ii) The number of pieces that do not bear a ZIP+4 barcode or delivery point barcode, but that bear correct ZIP+4 numeric codes (see 530) and meet the requirements of 540 under a column heading "Nonpresorted ZIP+4 Rate."

(iii) The number of other pieces under a column heading "Single Piece Rate".

(iv) The cumulative total (the total of all pieces listed for that ZIP Code plus all pieces listed for the preceding 3-digit ZIP Code areas) under a column heading "Cumulative Total."

(b) *Column Totals.* At the end of the listing show the totals of the pieces under each column heading.

(c) *Summary.*

(i) *Rate Categories and Postage Owed.* List the rate categories in the mailing from the columns above. For each rate category show the total number of pieces claimed. For permit imprint mailings also show the rate of postage for each piece and the total postage due for all pieces claimed at that rate (the number of pieces times the rate of postage). For each rate category in metered or precanceled stamp mailings show the amount of additional postage due for each rate category (if any) and the total postage due for all pieces claimed at that rate (the total number of pieces at that rate category times the amount of postage due per piece).

(ii) *Totals.* A grand total of the postage charges due for all the rate categories in the entire mailing must also be shown. This grand total shows the amount of postage that must be affixed to the mailing statement or paid through an advance deposit account. The summary must also list the total number of pieces in the mailing that bear a ZIP+4 barcode or delivery point barcode and show the total number of pieces that do not. The percentage of ZIP+4 barcoded or delivery point barcoded pieces in the mailing must be shown.

c. Physical Separation Option.

(1) *ZIP Code Grouping and Packaging.* No grouping/packaging is required in full trays of pieces exceeding the maximum dimensions for postcards (4¼

inches high, 6 inches long, and .0095 inch thick). In trays of pieces that do not exceed the maximum dimensions for postcards and in all less than full trays, pieces must be secured together into packages as provided in 561.11.

(2) *Traying.*

(a) *Basic Tray Separations.* Pieces that bear correct ZIP+4 barcodes or delivery point barcodes must be separately trayed from pieces that do not. Pieces that do not bear correct ZIP+4 barcodes or delivery point barcodes must be further separated so that pieces bearing a correct numeric ZIP+4 code (see 530) in the address and meeting the requirements of 540, are separately trayed from other pieces.

(b) *Separation Into Groups of 100 Pieces Within Each Tray If Nonidentical Weight.* If the pieces in the mailing are of nonidentical weight (metered or precanceled stamp mailings only) they must be separated into groups of 100 pieces within each of the trays resulting from sortation in accordance with 569.222c(2) above. The groups of 100 must be delineated by separator cards (see 561.12). When the tray is full, nothing further is required. When the tray is less than full, pieces must also be secured into packages in accordance with 561.11 within each group of 100 pieces. In addition, full trays of pieces that do not exceed the maximum dimensions for postcards (4¼ inches high, 6 inches long, and .0095 inch thick) must be secured into packages as provided in 561.11. When there are fewer than 100 pieces in a group at the end of the last tray for any of the types of trays the actual number of pieces in the group must be written on the separator card. Trays must be labeled as follows:

(i) *Trays Containing ZIP+4 or Delivery Point Barcoded Pieces.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM LTRS BARCODED WKG

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example

DIS BAKERSFIELD CA—932
FCM LTRS BARCODED WKG
NBT CO BAKERSFIELD CA

(iii) *Trays Containing Pieces Not ZIP+4 or Delivery Point Barcoded Bearing Correct Numeric ZIP+4 Code in Address and Meeting Requirements of 540.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM ZIP+4 WORKING (or FCM ZIP+4 WKG)

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location

Example

DIS BAKERSFIELD CA—932
FCM ZIP+4 WORKING
NBT CO BAKERSFIELD CA

(iii) *Trays Containing Other Pieces Not ZIP+4 or Delivery Point Barcoded.*

Line 1: Letters "DIS" followed by the name, two-letter state abbreviation, and 3-digit SCF code for the SCF serving the entry post office as shown in Exhibit 122.63c or Exhibit 122.63d

Line 2: FCM WORKING (or FCM WKG)

Line 3: Name of the mailer and the city and two-letter state abbreviation of the mailer's location.

Example

DIS BAKERSFIELD—CA
FCM WORKING
NBT CO BAKERSFIELD CA

(3) *Documentation Requirements.* None.

569.23 Presentation of Trays. Trays do not have to be presented in any order in mailings that are 100% ZIP+4 barcoded or delivery point barcoded or in mixed mailings that are prepared under the ZIP Code sequencing and listing option. Trays must be grouped by rate category at the time of acceptance when the physical separation option is used to prepare mailings containing non-ZIP+4 barcoded or non-delivery point barcoded pieces.

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570 Presort and Documentation for Flat-Size Mail

571 RATE ELIGIBILITY

571.1 Presort Rate Mailings

571.11 First-Class Mailings

571.111 5-Digit and 3-Digit Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in 5-digit or 3-digit packages prepared under 572.1 and 573.1 and properly sacked under 573.2 can qualify for the 3/5 flat-size ZIP+4 Barcoded rate in 313.5. The 5-digit barcoded pieces in these packages can qualify for the Presorted First-Class rate in 313.222.

571.112 SCF Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in SCF packages prepared under 572.1 and 573.1 and properly sacked under 573.2 can qualify for the nonpresorted flat-size ZIP+4 Barcoded rate in 312.23. The 5-digit barcoded pieces in these packages can qualify for the single-piece First-Class rates in 311.2.

571.113 Residual Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in a residual package prepared under 573.27 can qualify for the nonpresorted flat-size ZIP+4 Barcoded rate in 312.23. The 5-digit barcoded pieces in these packages can qualify for the single-piece First-Class rates in 311.2.

571.12 Second-Class Mailings

571.121 5 Digit Packages of Six or More Pieces. Pieces bearing a ZIP+4 barcode or delivery point barcode in a 5-digit package of six or more pieces prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the level B5/H5/J5 flat-size ZIP+4 Barcoded rates. The 5-digit barcoded pieces in these packages of six or more pieces can qualify for the B5/H5/J5 presort rates. See 411.2 and 411.3.

571.122 Optional City and Unique 3-digit Packages of Six or More Pieces. Pieces bearing a ZIP+4 barcode or delivery point barcode in an optional city or a unique 3-digit package of six or more pieces prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the B3/H3/J3 flat-size ZIP+4 Barcoded rates. The 5-digit barcoded pieces in these packages of six or more pieces can qualify for the B3/H3/J3 presort rate. See 411.2 and 411.3.

571.123 Nonunique 3-Digit, and SCF Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in a nonunique 3-digit or an SCF package prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the A/G/J1 flat-size ZIP+4 Barcoded rates. The 5-digit barcoded pieces in these packages can qualify for the A/G/J1 presort rate. See 411.2 and 411.3.

571.124 5-Digit, Optional City, and Unique 3-Digit Packages of Less Than Six Pieces. Pieces bearing a ZIP+4 barcode or delivery point barcode in a 5-digit, optional city, or unique 3-digit package of less than six pieces prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the A/G/J1 flat-size ZIP+4 Barcoded rates. The 5-digit barcoded pieces in these packages can qualify for the A/G/J1 presort rate. See 411.2 and 411.3.

571.125 Residual Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in a residual package prepared under 573.27 can qualify for the A/G/J1 flat-size ZIP+4 Barcoded rates. The 5-digit barcoded pieces in

these packages can qualify for the A/G/J1 presort rate. See 411.2 and 411.3.

571.13 Third-Class Mailings

571.131 5-Digit and 3-Digit Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in 5-digit or 3-digit packages prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the 3/5 flat-size ZIP+4 Barcoded rate. Other pieces in these packages can qualify for the 3/5 presort rate.

571.132 SCF Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in SCF packages prepared under 572.1 and 573.1 and properly sacked or palletized under 573.2 or 576 can qualify for the basic flat-size ZIP+4 Barcoded rate. Other pieces in these packages can qualify for the basic presort rate.

571.133 Residual Packages. Pieces bearing a ZIP+4 barcode or delivery point barcode in residual packages prepared under 573.27 can qualify for the basic flat-size ZIP+4 Barcoded rate. Other pieces in these packages can qualify for the basic presort rate.

571.2 Nonpresorted First Class Mailings. See 577.1.

572 GENERAL PACKAGING AND SACKING

[*Delete current 572.1 through 572.3.*]

572.1 General Package Preparation. [Insert current 572.4. Renumber subsections and internal references accordingly.]

572.2 General Requirements for Sack Preparation. [Insert current 572.5. Renumber subsections and internal references accordingly. In renumbered 572.232b—Tray/Pouch Labels, change the reference "561.47" to "561.27".]

573 Package and Sack Sortation Requirements for Presorted Flat-Size Barcoded Mailings. [Insert current 573. Change all references "572.42" to "572.12." Change all references "572.442" to "572.142".]

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576 PALLETIZATION OF PRESORTED FLAT-SIZE ZIP+4 BARCODED RATE PACKAGES

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576.3 Package Preparation. [In current 576.3, change the reference "572.4" to "572.1."]

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577.1 Rate Eligibility. Pieces that bear the correct ZIP+4 barcode or delivery point barcode prepared under 551, and that meet the requirements of 513, 516, and this section qualify for the nonpresorted flat-size ZIP+4 Barcoded rate. Remaining pieces that bear the correct 5-digit barcode prepared under 552, and that meet the requirements of 513, 516, and this section qualify for the single-piece First-Class rate.

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577.212 Packaging. [In current 577.212 change the reference "572.4" to "572.1". Change the reference "572.442" to "572.142."]

* * * * *

577.221 ZIP Code Sequencing and Listing

a. Packaging. [In current 577.221a, change the reference "572.4" to "572.1." Change the reference "572.442" to "572.142."]

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577.222 Physical Separation Option for Mailings of Identical Weight Pieces. [In current 577.222, change the reference "572.422" to "572.122."]

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580 Postage Payment

581 FIRST-CLASS ZIP+4 PRESORT, ZIP+4 BARCODED RATE, NONPRESORTED ZIP+4 RATE, AND NONPRESORTED ZIP+4 BARCODED RATE MAILINGS

581.1 Permit Imprint

581.11 General. The requirements of 145 must be met.

581.12 Identical-Weight Pieces

581.121 Letter-Size Mailings Prepared Under 560. Identical-weight mailings may have postage paid by permit imprint. The documentation required in 562.14 or 563.5 (or, through March 20, 1993, 365.3, 366.3, or 562.25) must accompany ZIP+4 Presort mailings. The documentation required by 564.14, 565.5, or 566.6 (or, through March 20, 1993, 364.2, 364.7, 564.24, or 567.6) must accompany letter-size ZIP+4 Barcoded rate mailings. For nonpresorted ZIP+4 rate mailings that are not 100% ZIP+4 coded, the documentation required by 569.122b(3) must accompany the mailing, or the trays must be grouped by the tray separations required by 569.122c upon presentation for acceptance. For nonpresorted ZIP+4 barcoded rate mailings that are not 100% ZIP+4 or delivery point barcoded, the documentation required by 569.222b(3) must accompany the mailing, or the trays must be grouped by the tray separations required by 569.222c upon presentation for acceptance.

581.122 Flat-Size Mailings Prepared Under 570. Identical-weight mailings may have postage paid by permit imprint. The documentation required by 574 or 575 must accompany presorted flat-size ZIP+4 Barcoded rate mailings. For nonpresorted flat-size ZIP+4 Barcoded rate mailings that contain 5-digit barcoded pieces, the documentation required by 577.221c must accompany the mailing, or the sacks must be grouped by the separations required by 577.22.

581.13 Nonidentical-Weight Pieces. Pieces of nonidentical-weight (in either letter-size mailings or in flat-size mailings) may be paid by permit imprint only under a manifest mailing system, optional procedure, or alternate mailing system procedure authorized by the general manager, rates and classification center (see 145.7, 145.8, or 145.9). Letter-size ZIP+4 Barcoded rate mailings may also be granted authorization to mail under combined mailing procedures under 581.5 and 581.6 by the general manager, rates and classification center.

581.2 Payment by Metered Postage

581.21 General Letter-Size and Flat-Size Mailings. The requirements of 144 must be met. Meters may be used to pay postage for mailings of both identical-weight and nonidentical-weight pieces. Either each piece in the mailing must have postage affixed at the exact rate of postage for which it qualifies (including postage for additional ounces) as described in 581.22; or all pieces in the mailing must have postage affixed at the lowest rate for which any piece in the mailing qualifies (including postage for additional ounces) as described in 581.22. In addition, mailers may prepare mailings under 581.4, in which neither the lowest rate nor the correct rate for the first ounce is affixed to each piece, and postage is paid based on the assumption that the lowest amount of postage for the first-ounce affixed to any one piece is affixed to all pieces. In all cases, whenever pieces in metered mailings weigh over one ounce, the appropriate amount of postage to cover the additional ounce or ounces of postage as set forth in 310 must be affixed to each piece. Letter-size ZIP+4 Barcoded rate mailings may also be prepared under procedures for value added refunds in 147.42, and under procedures for combined mailings under 581.5 and 581.6.

581.22 Exact Postage Affixed to Each Piece

581.221 ZIP+4 Presort Rate Mailings (Letter-Size Only). Pieces qualifying for the ZIP+4 Presort rate, the Presorted First-Class Rate, the nonpresorted ZIP+4 rate, and the single-piece First-Class rate are each metered at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce. If

postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the applicable postcard rates, and letter-rate pieces must be metered at the applicable letter rates.

581.222 ZIP+4 Barcoded Rate Mailings

a. Letter-Size Mailings Prepared Under 560. Pieces qualifying for the 5-digit ZIP+4 Barcoded rate, the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate, and the single-piece First-Class rate are each metered at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than one ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the applicable postcard rates, and letter-rate pieces must be metered at the applicable letter rates.

b. Flat-Size Mailings Prepared Under 570. Pieces qualifying for the ⅗ Barcoded ZIP+4 Barcoded rate, the Presorted First-Class rate, the flat-size nonpresorted ZIP+4 Barcoded rate, or the single-piece rate are each metered at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce, and if applicable, the nonstandard surcharge (see 315.1).

581.223 Nonpresorted ZIP+4 Rate Mailings (Letter-Size Only). Pieces qualifying for the nonpresorted ZIP+4 rate and for the single-piece First-Class rate are each metered at the rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the applicable postcard rates, and letter-rate pieces must be metered at the applicable letter rates.

581.224 Nonpresorted ZIP+4 Barcoded Rate Mailings

a. Card-Rate Mailings. Pieces qualifying for the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, and the single-piece First-Class rate are each metered at the corresponding postcard rate for which they qualify.

b. Flat-Size Mailings. Pieces qualifying for the flat-size nonpresorted ZIP+4 Barcoded rate or the single-piece rate are each metered at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce, and if applicable, the nonstandard surcharge (see 315.1).

581.23 Lowest Rate in Mailing Affixed to Each Piece

581.231 ZIP+4 Presort Rate Mailings (Letter-Size Only). All pieces in a ZIP+4 Presort mailing may have postage at the ZIP+4 Presort rate affixed to each piece in the mailing. When mailings contain pieces weighing more than 1 ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the ZIP+4 Presort postcard rate, and letter-rate pieces must be metered at the ZIP+4 presort letter rates. Additional first-ounce postage for pieces at the Presorted First-Class rate, the nonpresorted ZIP+4 rate and the single-piece rate is assessed on the difference between the ZIP+4 Presort rate and the rate for which each piece qualifies according to the documentation required in 562.14 or 563.5 (or, through March 20, 1993, 365.3, 366.3, or 562.25). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.232 Presorted ZIP+4 Barcoded Rate Mailings

a. Letter-Size Mailings Prepared Under 560.

(1) *Mailings Containing Pieces Qualifying for the 5-Digit Barcoded Rate.* Where 5-digit trays are prepared under 564, or 5-digit packages are prepared under 565, 566, or 567, all pieces may have metered postage affixed at the 5-digit ZIP+4 Barcoded rate. When mailings contain pieces weighing more than 1 ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the 5-digit ZIP+4 Barcoded postcard rate, and letter-rate pieces must be metered at the 5-digit ZIP+4 Barcoded letter rates. Additional first-ounce postage for pieces at the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate and the single-piece rate is assessed on the difference between the 5-digit ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 564.14, 565.5, 566.6 (or, through March 20, 1993, 364.2 or 567.6). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

(2) *Mailings Not Containing Pieces Qualifying for the 5–Digit Barcoded rate.* Where a mailing prepared under 564 does not include 5-digit trays or a mailing under 565, 566, or 567 does not include 5-digit packages, all pieces may have metered postage affixed at the 3-digit ZIP+4 Barcoded rate. When mailings contain pieces weighing more than one ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the 3-digit ZIP+4 Barcoded postcard rate, and letter-rate pieces must be metered at the 3-digit ZIP+4 Barcoded letter rates. Additional first-ounce postage for pieces at the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate, and the single-piece rate is assessed on the difference between the 3-digit ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 564.14, 565.5, or 566.6 (or, through March 20, 1993, 364.2, 364.4, 564.24, or 567.7). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

b. Flat Size ZIP+4 Barcoded Rate Mailings Prepared Under 570. All pieces in the mailing may have metered postage affixed at the ⅗ ZIP+4 Barcoded rate. When mailings contain pieces weighing more than one ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. Additional first-ounce postage for pieces at the Presorted First-Class rate, the flat-size nonpresorted ZIP+4 Barcoded rate, and the single-piece rate is assessed on the difference between the ⅗ ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 574 or 575. The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.233 Nonpresorted ZIP+4 Rate Mailings (Letter-Size Only). All pieces in

the mailing may be metered at the nonpresorted ZIP+4 rate. When mailings contain pieces weighing more than 1 ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must be metered at the nonpresorted ZIP+4 postcard rate, and letter-rate pieces must be metered at the nonpresorted ZIP+4 Barcoded letter rates. Additional first-ounce postage for pieces at the single-piece First-Class rate is assessed based on the documentation required by 569.122b(3), or piece counts from the tray separations and groupings required by 569.122c (or, through March 20, 1993, based on 368.122 or 368.123). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.234 Nonpresorted ZIP+4 Barcoded Rate Mailings

a. Card-Rate Mailings Prepared Under 560. All pieces in the mailing may be metered at the nonpresorted ZIP+4 Barcoded postcard rate. Additional postage for pieces at the nonpresorted ZIP+4 postcard rate, and the single piece First-Class postcard rate is assessed based on the documentation required by 569.222b(3), or piece counts from the tray separations and groupings required by 569.222c (or, through March 20, 1993, based on 368.222 or 368.223). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

b. Flat-Size Mailings Prepared Under 570. All pieces in the mailing may be metered at the nonpresorted ZIP+4 barcoded rate. When mailings contain pieces weighing more than 1 ounce, each piece must be appropriately metered to cover the additional ounce or ounces of postage. When mailings contain 5-digit barcoded pieces, additional first-ounce postage for those pieces at the single-piece rate is assessed based on the documentation required by 577.221c, or piece counts based upon the sack separations required by 577.22. The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.3 Payment by Precanceled Stamps

581.31 General—Letter and Flat-Size Mailings. The requirements of 143 must be met. Precanceled stamps may be used to pay postage for mailings of both identical weight and nonidentical weight pieces. Postage must be paid by one of three methods: Exact postage affixed to each piece (including postage for additional ounces) under 581.32; postage at lowest rate in the mailing affixed to each piece (including postage for additional ounces) under 581.33; or a nondenominated stamp or stamp of a denomination less than the lowest rate in the mailing may be affixed to each piece in the mailing under 581.34. In addition, 581.4 contains procedures where neither the lowest rate nor the correct rate is affixed to each piece and mailers choose to pay postage based upon the assumption that the lowest amount of precanceled postage affixed to any one piece is affixed to all pieces. Letter-size ZIP+4 Barcoded rate mailings may also be prepared under procedures for combined mailings under 581.5 and 581.6.

581.32 Exact Postage Affixed to Each Piece

581.321 ZIP+4 Presort Rate Mailings (Letter-Size Pieces Only). Pieces qualifying for the ZIP+4 Presort rate, the Presorted First-Class Rate, the nonpresorted ZIP+4 rate, and the single-piece First-Class rate must each have precanceled stamps affixed at the corresponding rate for which they qualify, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled stamps affixed at the applicable postcard rates, and letter-rate pieces must have precanceled stamps affixed at the applicable letter-rates.

581.322 ZIP+4 Barcoded Rate Mailings

a. Letter-Size Mailings Prepared Under 560. Pieces qualifying for the 5-digit ZIP+4 Barcoded rate, the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate, and the single-piece First-Class rate must each have precanceled stamps affixed at the corresponding rate for which they qualify, including postage to cover additional ounce increment(s) if pieces weigh more than one ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled stamps affixed at the applicable postcard rates, and letter-rate pieces must have precanceled stamps affixed at the applicable letter-rates.

b. Flat-Size Mailings Prepared Under 570. Pieces qualifying for the 3/5 flat-size ZIP+4 Barcoded rate, the Presorted First-Class rate, the flat-size nonpresorted ZIP+4 Barcoded rate, or the single-piece rate must each have precanceled stamps affixed at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce, and if applicable, the nonstandard surcharge (see 315.1).

581.323 Nonpresorted ZIP+4 Rate Mailings (Letter-Size Only). Pieces qualifying for the nonpresorted ZIP+4 rate and for the single-piece First-Class rate must each have precanceled stamps affixed at the corresponding rate for which they qualify, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled stamps affixed at the applicable postcard rates, and letter-rate pieces must have precanceled stamps affixed at the applicable letter-rates.

581.324 Nonpresorted ZIP+4 Barcoded Rate Mailings

a. Card-Rate Pieces. Pieces qualifying for the nonpresorted ZIP+4 Barcoded rate, the nonpresorted ZIP+4 rate, and the single-piece First-Class rate must each have precanceled stamps affixed at the corresponding postcard rate for which they qualify.

b. Flat Size Mailings. Pieces qualifying for the flat-size nonpresorted ZIP+4 Barcoded rate or the single-piece rate are each metered at the corresponding rate for which they qualify, including postage to cover additional ounce increments when pieces weigh more than 1 ounce, and if applicable, the nonstandard surcharge (see 315.1).

581.33 Lowest Rate in Mailing Affixed to Each Piece

581.331 ZIP+4 Presort Rate Mailings (Letter-Size Only). All pieces in a ZIP+4 Presort mailing may have precanceled stamps at the ZIP+4 Presort rate affixed to each piece in the mailing, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled postage affixed at the ZIP+4 Presort postcard-rate and letter-rate pieces must have precanceled postage affixed at the ZIP+4 Presort

letter rates. Additional first-ounce postage for pieces at the presorted first-class rate, the nonpresorted ZIP+4 rate, and the single-piece rate is assessed on the difference between the ZIP+4 Presort rate and the rate for which each piece qualifies according to the documentation required in 562.14 or 563.5 (or, through March 20, 1993, 365.3, 366.3, or 562.25). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.332 ZIP+4 Barcoded Rate Mailings

a. Letter-Size Mailings Prepared Under 560.

(1) *Mailings Containing Pieces Qualifying for the 5-Digit Barcoded Rate.* Where 5-digit trays are prepared under 564, or 5-digit packages are prepared under 565, 566 or 567, all pieces may have precanceled stamps affixed at the 5-digit ZIP+4 Barcoded rate, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled postage affixed at the 5-digit ZIP+4 Barcoded postcard-rate, and letter-rate pieces must have precanceled postage affixed at the 5-digit ZIP+4 Barcoded letter rates. Additional first-ounce postage for pieces at the 3-digit ZIP+4 Barcoded rate, the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate, and the single-piece rate is assessed based on the difference between the 5-digit ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 564.14, 565.5, or 566.6 (or, through March 20, 1993, 364.2, or 567.7). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

(2) *Mailings Not Containing Pieces Qualifying for the 5-Digit Barcoded Rate.* Where a mailing prepared under 564 does not include 5-digit trays, or a mailing under 565, 566, or 567 does not include 5-digit packages, all pieces may have precanceled stamps affixed at the 3-digit ZIP+4 Barcoded rate, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled postage affixed at the 3-digit ZIP+4 Barcoded postcard rate, and letter-rate pieces must have precanceled postage affixed at the 3-digit ZIP+4 Barcoded letter rates. Additional first-ounce postage for pieces at the ZIP+4 Presort rate, the Presorted First-Class rate, the nonpresorted ZIP+4 Barcoded rate (cards only), the nonpresorted ZIP+4 rate, and the single-piece rate is assessed on the difference between the 3-digit ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 564.14, 565.5, or 566.6 (or, through March 20, 1993, 364.2, 364.4, 564.24, or 567.7). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

b. Flat-Size Mailings. All pieces in the mailing may have precanceled stamps affixed at the 3/5 ZIP+4 Barcoded rate, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. Additional first-ounce postage for pieces at the Presorted First-Class rate, the flat-size nonpresorted ZIP+4 Barcoded rate, and the single-piece rate is assessed upon the difference between the 3/5 ZIP+4 Barcoded rate and the rate for which each piece qualifies according to the documentation required in 574 or 575. The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.333 Nonpresorted ZIP+4 Rate Mailings (Letter-Size Only). All pieces in the mailing may have precanceled stamps affixed at the nonpresorted ZIP+4 rate, including postage to cover additional ounce increments if pieces weigh more than ounce. If postcard-rate and letter-rate pieces are included in the same mailing, postcard-rate pieces must have precanceled postage affixed at the nonpresorted ZIP+4 postcard rate, and letter-rate pieces must have precanceled postage affixed at the nonpresorted ZIP+4 letter rates. Additional first-ounce postage for pieces at the single-piece First-Class rate is assessed based on the documentation required by 569.122b(3), or piece counts from the tray separations and groupings required by 569.122c (or, through March 20, 1993, based on 368.122 or 368.123). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.334 Nonpresorted ZIP+4 Barcoded Rate Mailings

a. Card-Rate Mailings. All pieces in the mailing may have precanceled stamps affixed at the nonpresorted ZIP+4 Barcoded postcard rate. Additional postage for pieces at the nonpresorted ZIP+4 postcard rate, and the single-piece First-Class postcard rate is assessed based on the documentation required by 569.222b(3), or piece counts from the tray separations and groupings required by 569.222c (or, through March 20, 1993, based on 368.222 or 368.223). The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

b. Flat-Size Mailings. All pieces in the mailing may have precanceled stamps affixed at the flat-size nonpresorted ZIP+4 Barcoded rate, including postage to cover additional ounce increments if pieces weigh more than 1 ounce. When mailings contain 5-digit barcoded pieces, additional postage for those pieces at the single-piece rate is assessed based on the documentation required by 577.221c, or piece count based upon the sack separations required by 577.22. The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.34 Nondenominated Precanceled Stamps or Precanceled Stamps of Denomination Less than Lowest Rate in Mailing Affixed to Each Piece

581.341 Description. A nondenominated precanceled stamp may be affixed to each piece in the mailing if available. Precanceled stamps of a denomination less than the first ounce of the lowest rate in the mailing may also be affixed to each piece if the stamps do not bear an inappropriate rate marking. The same denomination of stamp must be affixed to each piece in the mailing. If nondenominated stamps are used, nondenominated stamps must be affixed to each piece in the mailing.

581.342 Computation of Additional Postage Owed

a. Letter-Size Mailings Prepared Under 560. Mailers must pay the additional postage totaling the difference between the face value (or purchase price) of the precanceled stamp and the amount of actual postage owed for each piece in the amount documented under 562.14 or 563.5 (or, through March 20, 1993, 365.3, 366.3, or

562.25), for ZIP+4 Presort rate mailings and in the amount documented under 564.14, 565.5, or 566.6 (or, through March 20, 1993, 364.2, 364.4, 564.24, and 567.6), for ZIP+4 Barcoded rate mailings. For Nonpresorted ZIP+4 and Nonpresorted ZIP+4 Barcoded rate mailings, mailers must pay additional postage totaling the difference between the face value (or purchase price) of the precanceled stamps and the amount of actual postage owed based on the documentation required by 569.122b(3) or 569.222b(3), or based on the piece counts from the tray separations and groupings required by 569.122c or 569.222c (or, through March 20, 1993, based on 368.122 or 368.123 for nonpresorted ZIP+4 rate mailings, or based upon 368.222 or 368.223 for nonpresorted ZIP+4 Barcoded rate mailings.

b. Flat-Size Mailings Prepared Under 570. Mailers must pay the additional postage totaling the difference between the face value of the precanceled stamp and the amount of actual postage owed for each piece in the amount documented under 574 or 575 for presorted flat-size ZIP+4 Barcoded rate mailings. For flat-size nonpresorted ZIP+4 Barcoded rate mailings the additional postage totaling the difference between the face value (or purchase price) of the precanceled stamp and the amount of actual postage owed based on the documentation required by 577.221c, or pieces counts based on the sack separations under 577.22.

581.343 Method of Paying Additional Postage. The additional postage must be paid by means of a meter strip affixed to the back of the mailing statement that must accompany the mailing, or through an advance deposit account as provided in Handbook F–1, 524.

581.4 Neither Lowest Rate Nor Exact Postage Affixed to Each Piece (Metered or Precanceled Stamp Mailings)

581.41 General. Where it is not practicable for the mailer to affix the exact postage to each piece as required by 581.22 or 581.32, or to affix the lowest postage rate to all pieces in the mailing as required by 581.23 and 581.33, postage for the mailing may be computed as if the lowest rate affixed to any piece in the mailing is affixed to all pieces as provided in 581.42 and 581.43. In such mailings, all pieces must bear metered postage, or all pieces must bear precanceled stamps. (Only letter-size mailings prepared under 560 may include both metered and precanceled postage if prepared as provided in 581.5 and 581.6.) If metered postage is affixed, and pieces weigh more than 1 ounce, the postage affixed to each piece may have different first-ounce rates affixed, but each piece must have postage affixed to cover the additional ounce increments.

581.42 Adding Postage. Additional postage for the mailing must be based on the difference between the actual amount of postage owed for the mailing and the product obtained by multiplying the lowest rate affixed to any piece in the mailing times the total number of pieces in the mailing. The actual amount of postage owed for the mailing is determined from the documentation required under 560 for letter-size ZIP+4 rate or ZIP+4 Barcoded rate mailings and from the documentation required under 570 for flat-size ZIP+4 barcoded rate mailings. No refund is paid on any piece where postage is affixed at a rate higher than the lowest rate claimed for or affixed to any piece. For example, if a letter-size ZIP+4 Barcoded rate mailing contains pieces bearing 5-digit ZIP+4 Barcoded rate postage, as well as pieces bearing Presorted First-Class postage, ZIP+4 Presort postage, and nonpresorted ZIP+4 postage, the computation of additional postage due for the mailing based upon the documentation required by 560 is computed as if all pieces in the mailing had the 5-digit ZIP+4 barcoded rate of postage affixed.

581.43 Payment. [Copy current 382.43.]

581.5 ZIP+4 Barcoded Rate Combined Mailings With Different Postage Payment Methods

[Insert current section 382.6. Renumber subsections and references accordingly.]

581.6 Combined Mailing Documentation Submission Requirements

[Insert 382.7. Renumber subsections and references accordingly.]

582 Second-Class ZIP+4 and ZIP+4 Barcoded Rate Mailings. Postage must be paid for second-class ZIP+4 and ZIP+4 Barcoded rate mailings as described in 462. The documentation described in 562.5, 563.5, 564.5, or 565.7 must be used to substantiate the per piece rates claimed on the mailing statement. Additional documentation to substantiate other elements on the mailing statement may be required as set forth in 424.84.

583 THIRD-CLASS ZIP+4 AND ZIP+4 BARCODED RATE MAILINGS

583.1 Permit Imprint

583.11 General. The requirements in 145 must be met.

583.12 Identical Weight Pieces. [Copy current 661.311. Change the Chapter 5 references to read "in 562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, 567.6, 574, or 575." Delete all Chapter 6 references.]

583.13 Nonidentical-Weight Pieces. [Copy current 661.312. Insert the phrase "or ZIP+4 Barcoded rate combined mailing procedure" in front of the word authorized. Add the reference 583.4 to the end of the section.

583.2 Metered Postage

583.21 General. Meters may be used to pay postage for mailings of both identical weight and nonidentical weight pieces. Postage may be paid by either of the methods described in 583.23 or 583.24. When flat-size mailings contain pieces subject to the pound rates, the rate of postage is computed as described in 583.22. Flat-size mailings that are metered may contain both pieces subject to minimum per piece rates (pieces weighing 3.3067 ounces or less at regular rates or pieces weighing 3.3367 ounces or less at special rates) and pieces subject to pound rates.

583.22 Computation of Postage at Pound Rates. For flat-size mailings subject to pound-rates, postage for each piece is computed by multiplying the weight of the piece in decimal pounds by the pound rate, adding this amount to the applicable per-piece rate and rounding the sum up to the nearest tenth of a cent or whole cent that can be printed. As an alternative, mailers may meter the applicable per-piece rate to each piece and pay the pound rate portion of the postage for the entire mailing through a permit imprint advance deposit account, provided the entire mailing qualifies for the same pound rate (i.e. qualifies for the same destination entry rate). When this alternative method is used each piece in the mailing must bear the endorsement "Pound Rate Pd via Permit." The marking may be made via postage meter, special slug, ad plate, or other suitable means that ensures a legible endorsement.

583.23 Exact Postage Affixed to Each Piece. [Copy current 662.322. Renumber subsections and references accordingly. Delete all references to 624 and 628. Change all references "562.16, 563.24, or 564.6" to read "562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, 567.6."]

583.24 Lowest Rate in Mailing Affixed to Each Piece. [Copy current 661.323. Renumber subsections and references accordingly. Delete all references to 624 and 628. Change all references "562.16, 563.24, or 564.6" to

read "562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, 567.6."]

583.25 Neither Lowest Rate nor Correct Postage Rate Affixed to Each Piece

583.251 General. Where it is not practicable for the mailer to affix the exact postage to each piece as required by 583.23 or to affix the lowest postage rate to all pieces in the mailing as required by 583.24, postage for the mailing may be computed as if the lowest rate affixed to any piece in the mailing is affixed to all pieces as provided in 583.252 and 583.253. In such mailings, all pieces must bear metered postage or all pieces must bear precanceled stamped postage affixed. (Only letter-size mailings prepared under 560 may include both metered and precanceled postage if prepared as provided in 583.4 and 583.5.) If precanceled stamps are not available at either the lowest rate or at the exact rate of postage for ZIP+4 and ZIP+4 Barcoded rate mailings, the procedures in 583.3 may be followed for precanceled stamp mailings at these rates provided the same denomination of precanceled stamp is affixed to each piece in the mailing.

583.252 Adding Postage. [Copy current 661.324b. Add the following as the second sentence: "The amount of postage owed is based on the documentation required for the ZIP+4 or ZIP+4 Barcoded rate mailing under the applicable section of 560 or 570."]

583.253 Payment. [Copy current 661.324c.]

583.3 Precanceled Stamps or Precanceled Stamped Envelopes

[Copy current: 661.33. Delete the second sentence. Renumber references appropriately. After the sentence "The same denomination of stamp must be affixed to each piece in the mailing" add the following sentence: "If nondenominated stamps are used, nondenominated stamps must be affixed to each piece in the mailing." Delete all references to 624 and 628. Change all references "562.16, 563.24, or 564.6" to read "562.14, 562.25, 563.5, 564.14, 564.24, 565.5, 566.6, 567.6."]

583.4 ZIP+4 Barcoded Rate Combined Mailings With Different Postage Payment Methods

[Insert current 661.4. Renumber subsections and references accordingly.]

583.5 Combined Mailing Documentation Submission Requirements

[Insert 661.5. Renumber subsections and references accordingly.]

6. Revise Chapter 6 to read as follows.

CHAPTER 6—THIRD CLASS MAIL

611 RATES

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611.2 Bulk Rates

* * * * *

611.22 Rate Structure

* * * * *

611.222 Postage Discounts and Reductions.

* * * * *

b. Automation.

* * * * *

624 CONDITIONS FOR SPECIFIC BULK RATE PREPARATION LEVELS

* * * * *

624.223 3/5 Presort Rate Eligibility. To be eligible for the 3/5 presort rate, pieces must be prepared in one of the following ways:

* * * * *

c. Until March 21, 1993, in an * * * [insert current 624.223c. Delete the last sentence.]

d. In full or overflow 5-digit and 3-digit trays prepared in accordance with ZIP+4 tray-based requirements in 562.2.

e. In full or overflow 5-digit, 3-digit, and SCF trays prepared in accordance with ZIP+4 tray-based requirements in 562.1.

f. In 5-digit and 3-digit packages prepared in accordance with ZIP+4 package-based requirements in 563.

g. In 5-digit, 3-digit and SCF trays prepared in accordance with letter-size ZIP+4 barcoded tray-based requirements in 564.

h. In 5-digit and 3-digit packages prepared in accordance with letter-size ZIP+4 barcoded package-based requirements in 565, 566, or 567.

i. In 5-digit and 3-digit packages prepared in accordance with 3/5 flat-size ZIP+4 Barcoded rate requirements in 570.

[Renumber current 624.223d through g as 624.223j through m.]

624.23 Residual. [Insert text of current 624.23. Change the reference "624.223g" to "624.223m".]

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624.72 Destination Bulk Mail Center (DBMC) Rate

* * * * *

624.723 Separation of Pieces by Rate

a. When Required. [Separate SDC, state, mixed states, or residual sacks, or separate AADC or residual trays, (as permitted by the presort requirements for the rate claimed) must be prepared for pieces eligible for the DBMC rate if the mailer includes them in that portion of the mailing claimed at the DBMC rate, and the facility to which the sacks, trays or pallets are labeled is within the DBMC service area.

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624.73 Destination Sectional Center Facility (DSCF) Rate

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624.732 Eligibility. [Revise the phrase "and placed in other than an SDC, BMC, state, or mixed states, tray, sack, or pallet" to read "and placed in other than an SDC, BMC, state, mixed states, AADC, ADC, or residual, tray, sack, or pallet."]

* * * * *

[Delete current 628. Insert the following:]

628.1 Eligibility Requirements for ZIP+4 Third-Class Mail (Letter Size Pieces Only)

628.11 General. ZIP+4 rate mailings must meet the requirements specified in 513 and 514. The rate eligibility criteria for mailings presorted under 562.1, 562.2, or 563 are contained in 562.113, 562.223, and 563.13. The rate eligibility criteria for mailings presorted under 628.311 are contained in 628.12 through 628.16.

628.12 Mailings Prepared Under 641 (Available Only Through March 20, 1993). ZIP+4 coded pieces in a 5-digit, optional city, or 3-digit package of 10 or more pieces that are correctly sacked in a 5-digit, optional city, or 3-digit sack that contains at least 125 pieces or 15 pounds of pieces under 641.1, can qualify for the 3/5 ZIP+4 rate. Pieces that bear a ZIP+4 code in 5-digit, optional city, 3-digit, optional SCF, state, optional SDC, and mixed states packages that are correctly sacked in SCF, optional SDC, state, or mixed states sacks under 641.1 can qualify for the basic ZIP+4 rate. Other pieces packaged and sacked in this manner can qualify for the basic presort rate.

628.13 Mailings Prepared Under 647 (Available Only Through March 20, 1993). ZIP+4 coded pieces in an optional firm, 5-digit, optional city, or 3-digit package of 10 or more pieces correctly trayed in a full 5-digit, optional city, or 3-digit tray as described in 641.135, 647.3, and 647.4 can qualify for the 3/5 ZIP+4 rate. Other pieces packaged and trayed in this manner can qualify for the 3/5 presort rate. Pieces that bear a ZIP+4 code in optional firm, 5-digit, optional city, 3-digit, optional SCF, state, optional SDC, and mixed states packages that are correctly trayed in SCF, optional SDC, state, or mixed states sacks under 641.135 and 647 can qualify for the basic ZIP+4 rate. Other

pieces packaged and sacked in this manner can qualify for the basic presort rate.

628.14 Optional Automated Site Mailings Prepared Under 628.3 (Available Only Through March 20, 1993). ZIP+4 coded pieces in optional city or 3-digit packages of 10 or more pieces correctly sacked in an optional city, or 3-digit sack that contains at least 125 pieces or 15 pounds of mail under 641.135, can qualify for the 3/5 ZIP+4 rate. Other pieces packaged and sacked in this manner can qualify for the 3/5 presort rate. Pieces for other destinations are not permitted in the mailing.

628.15 Optional Automated Site Mailings Prepared Under 647 (Available Only Through March 20, 1993). ZIP+4 coded pieces in an optional city, or 3-digit package of 10 or more pieces correctly trayed in a full optional city or 3-digit tray as described in 641.135, 647.3 and 647.4, can qualify for the 3/5 ZIP+4 rate. Other pieces packaged and trayed in this manner can qualify for the 3/5 presort rate.

628.16 Eligibility of Pieces Prepared With Barcodes. See 514.12 through 514.14.

628.2 Eligibility Requirements for ZIP+4 Barcoded Rate Mail

628.21 Mailings of Letter-Size Pieces

628.211 General. ZIP+4 Barcoded rate mailings must meet the requirements specified in 513 and 515. The rate eligibility criteria for mailings presorted under 564, 565, 566, or 567 are contained in 564.113, 564.223, 565.23, 566.23, and 567.23. The rate eligibility criteria for mailings presorted under 628.312 are contained in 628.212 through 628.216.

628.212 Mailings Prepared Under 641 (Available Only Through March 20, 1993).

a. Pieces in 5-Digit Packages Sorted to 5-Digit, Optional City, and 3-Digit Sacks Under 641.1. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 5-Digit ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates. Other pieces qualify for the 3/5 presort rates.

b. Pieces in Optional City and 3-Digit Packages Sorted to Optional City and 3-Digit Sacks Under 641.1. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 3-Digit ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates. Other pieces qualify for the 3/5 presort rates.

c. Pieces in Any Package Sorted to SCF, Optional SDC, State, and Mixed States Sacks Under 641.1. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the basic ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the basic ZIP+4 rates. Other pieces qualify for the basic presort rates.

628.213 Mailings Prepared Under 647 (Available Only Through March 20, 1993)

a. Pieces in Optional Firm and 5-Digit Packages Sorted to 5-Digit, Optional City, and 3-Digit Trays Under 647. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 5-digit ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates. Other pieces qualify for the 3/5 presort rates.

b. Pieces in Optional City and 3-Digit Packages Sorted to Optional City and 3-Digit Trays Under 647. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 3-Digit ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates. Other pieces qualify for the 3/5 presort rates.

c. Pieces in Any Package Sorted to SCF, Optional SDC, State, and Mixed States Trays Under 647. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the basic ZIP+4 Barcoded rate. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the basic ZIP+4 rates. Other pieces qualify for the basic presort rates.

628.214 Optional Automated Site Mailings Prepared Under 628.3 (Available Only Through March 20, 1993). Pieces in optional city or 3-digit packages of 10 or more pieces correctly sacked in an optional city, or 3-digit sack that contains at least 125 pieces or 15 pounds of mail under 641.135, can qualify for rates as follows:

a. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 3-Digit ZIP+4 Barcoded rate.

b. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates.

c. Other pieces qualify for the 3/5 presort rates.

628.215 Optional Automated Site Mailings Prepared Under 647 (Available Only Through March 20, 1993). Pieces in an optional city, or 3-digit package of 10 or more pieces correctly trayed in a full optional city or 3-Digit tray as described in 641.135, 647.3 and 647.4, can qualify for rates as follows:

a. Pieces that bear the ZIP+4 barcode or delivery point barcode can qualify for the 3-digit ZIP+4 Barcoded rate.

b. Pieces that do not bear a ZIP+4 barcode or delivery point barcode but bear the correct numeric ZIP+4 code in the address as specified in 530 and meet the requirements of 540 can qualify for the 3/5 ZIP+4 rates.

c. Other pieces qualify for the 3/5 presort rates.

628.22 Mailings of Flat Size Pieces. ZIP+4 Barcoded rate mailings must meet the requirements specified in 513 and 516. The rate eliqibility criteria are contained in 571.13.

628.3 Presort and Docmentation Requirements for Letter-Size ZIP+4 and ZIP+4 Barcoded Rate Mailings Not Presorted Under Chapter 5 (Available Only Until March 21, 1993)

628.31 Presort Requirements

628.311 ZIP+4 Mailings

a. General Requirements. All pieces in ZIP+4 rate mailings must be presorted together as required by 641.

b. Optional Sortation to Automated Sites. [Insert 628.26.]

c. Additional Sack Labeling Requirements. [Insert 628.27.]

d. Optional Use of Trays. ZIP+4 rate mailings may be prepared in trays rather than sacks as provided in 647.3.

628.312 Letter-Size ZIP+4 Barcoded Rate Mailings

a. General Requirements. All pieces in ZIP+4 Barcoded rate mailings must be presorted together as required by 641.

b. Optional Sortation to Automated Sites. [Insert 628.36.]

c. Additional Sack Labeling Requirements. [Insert 628.37.]

d. Optional Use of Trays. ZIP+4 Barcoded rate mailings may be prepared

in trays rather than sacks as provided in 647.

628.32 Documentation

628.321 General Requirements. [Insert current 628.13. Renumber subsections accordingly. Change the reference "628.131" to "628.321a" in current 628.122 (new 628.321b). Change the phrase "(see 628.212 and 628.312)" to "(see 628.13 and 628.213)" in current 628.132d (new 628.321b(4)). Change the phrase "(see 628.2 and 628.3)" to (see 628.322 and 628.3231)" in current 628.132f (new 628.321b(6)). Change the phrase "(see 628.212 and 628.312)" to "(see 628.13 and 628.213)" in current 628.133 (new 628.321c(3)). Change the reference "628.132" to "628.321b" in current 628.133d (new 628.321c(4)).

628.322 Additional Requirements for ZIP+4 Rate Mailings.

[Insert current 628.24. Change the reference "628.13" to "628.321".]

628.323 Additional Requirements for ZIP+4 Barcoded Rate Mailings. [Insert current 628.34. Change the reference "628.13" to "628.321".]

647 TRAY PREPARATION

647.1 3/5 and Basic Rate Mailings

647.11 Authorized Use. Trays may be used instead of sacks to prepare 3/5 and basic rate mailings only if authorized by the postmaster of the accepting post office. Authorization is granted only when the mail to be trayed is for delivery within the SCF of mailing. See 641.138.

647.12 Rate Eligibility. Mailings prepared in trays can qualify for 3/5 rates as described in 624.223b. Remaining pieces can qualify for basic rates. Mailings prepared in trays can qualify for the destination entry rates if the applicable requirements in 624.7 are met, and sufficient volume of mail per tray (see 647.41) is generated for the applicable destinations.

647.13 Packaging. Mailings prepared in trays must be packaged as required by 641.12, except as provided below.

647.131 5-Digit Trays. [Insert current 647.213.]

647.132 Optional City Trays. [Insert current 647.214.]

647.33 3-Digit Trays. [Insert current 647.215.]

647.14 Traying. Trays must be prepared in the same sequence as required for sacks under 641.135. A tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces) fill a tray. Trays that are less than full may not be prepared unless a sack containing fewer than 125 pieces and less than 15 pounds of pieces to the same destination is permitted under 641.135. See 647.4 for a definition of a full tray, provisions for overflow trays, and other traying requirements. The information placed on tray labels is the same as that for sacks.

647.2 Carrier Route and Walk-Sequence Mailings in Trays

647.21 Authorized Use. Trays may be used instead of sacks to prepared carrier route rate mailings only if authorized by the postmaster of the accepting post office. Authorization is granted only when the mail to be trayed is for delivery within the SCF of mailing. See 641.43.

647.22 Rate Eligibility. Mailings prepared in trays can qualify for carrier route or walk-sequence rates if the applicable provisions of 624.1, 624.3, 624.8 (if applicable), and 647.2 are met. Mailings prepared in trays can qualify for destination entry rates if the applicable requirements in 624.7 are met.

647.23 Packaging. Mailings prepared in trays must be packaged as required by 641.41, except that [insert current 647.212].

647.24 Traying. Trays must be prepared in the same sequence as required for sacks under 641.42. A tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces) fill a tray. Trays that are less than full may not be prepared unless a sack containing fewer than 125 pieces and less than 15 pounds of pieces to the same destination is permitted under 641.42. See 647.4 for a definition of a full tray, provisions for overflow trays, and other traying requirements. The information placed on tray labels is the same as that for sacks.

647.3 ZIP+4 and ZIP+4 Barcoded Rate Mailings in Trays

647.31 Mailings Prepared Under 560. Mailings must meet the requirements of the applicable preparation option in 560.

647.32 Letter-Size Mailings Not Prepared Under 560 (Available Only Through March 20, 1993)

647.321 Rate Eligibility (Mailings Not Prepared in Accordance with 560). ZIP+4 rate mailings prepared in trays qualify for rates as described in 628.13 or 628.15. ZIP+4 Barcoded rate mailings prepared in trays qualify for rates as described in 628.213 or 628.215. Mailings prepared in trays can qualify for destination entry rates if the applicable requirements in 624.7 are met.

647.322 Presort

a. Required preparation. (1) *Packaging.* (a) *General.* Mailings prepared in trays must be packaged as required by 641.12 except as provided below.

(b) *5-Digit Trays.* [Insert current 647.213.]

(c) *Optional City Trays.* [Insert current 647.214.]

(d) *3-Digit Trays.* [Insert current 647.215.]

(2) *Traying.* Trays must be prepared in the same sequence as required for sacks under 641.135. A tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces) fill a tray. Trays that are less than full may not be prepared unless a sack containing fewer than 125 pieces and less than 15 pounds of pieces to the same destination is permitted under 641.135. See 647.4 for a definition of a full tray, provisions for overflow trays, and other traying requirements. Tray labels must show the information specified for sacks in 641.133 and 641.135 followed by either ZIP+4 or Z+4 for ZIP+4 rate mailings and followed by either ZIP+4 Barcoded or Z+4 B/C for ZIP+4 Barcoded rate mailings.

b. Optional Automated Site Preparation. Mailers may prepare 3/5 ZIP+4 rate and 3-digit ZIP+4 Barcoded rate mailings without making 5-digit packages or trays if

(1) All pieces in the mailing are for destinations within the 3-digit ZIP Code ranges listed in Exhibit 122.63m.

(2) All pieces are prepared in optional city or 3-digit packages under 641.135c and 641.135d.

(3) All packages are trayed to full optional city or full 3-digit trays.

(4) Pieces not for a 3-digit destination in Exhibit 122.63m, and pieces that cannot be packaged and trayed in under 647.322b(2) and 647.322b(3) are prepared as a separate mailing.

647.4 General Traying Requirements

647.41 Minimum Volume per Tray. A tray must be prepared for a required presort destination when the corresponding pieces (or packages of pieces) fill a tray (see 647.42 and 647.43). Trays that are less than full may not be prepared unless a sack containing fewer than 125 pieces and less than 15 pounds of pieces to the same destination is permitted under 641.131b (Express Mail drop shipment), 641.135d, 641.135f and 641.135g (optional SCF, state, and mixed states), 641.421b (carrier route Express Mail drop shipment), 641.426 (exception for 5-digit carrier routes trays), and 641.427 (3-digit carrier routes trays).

647.42 Placement of Pieces in Trays. [Copy renumbered text of 561.42.]

647.43 Definition of Full Tray. [Copy renumbered text of 561.43. Do not

change Exhibit references. Change all other references to "561.42" to "647.42". Change all other references to "561.43" to "647.43."]

647.44 Overflow Trays. Mailers should balance the volume in trays when more than one is prepared for the same destination to ensure that the maximum number of full trays (as defined in 647.43) are prepared. After this step the remaining pieces for that destination may be placed in an overflow tray that is less than full. Pieces in overflow trays must be packaged and labeled. Only one overflow tray for a destination may be prepared. To allow accurate verification of the mailing by postal acceptance personnel, the mailer must provide a listing of all overflow trays except mixed states or 3-digit carrier routes trays, regardless of whether documentation is required for the rate claimed.

647.45 Sleeving and Banding. [Insert text of current 647.224.]

* * * * *

660 Payment of Postage

* * * * *

661.3 Bulk Mailings at ZIP+4 Rates and ZIP+4 Barcoded Rates (On March 21, 1993, these requirements will be located in 583 exclusively)

[Insert current 661.3. After every chapter 6 reference insert the phrase (available only until March 21, 1993.) Delete all references to 562.1 and 563.1. Revise all Chapter 5 ZIP+4 rate documentation references to read "562.14, 562.24, and 563.3." Revise all Chapter 5 ZIP+4 Barcoded rate documentation references to read: "564.14, 564.24, 565.5, 566.6, or 567.6." Revise all references "628.13, 628.24, 628.34" to read "628.321, 628.322, 628.323."]

661.4 ZIP+4 Barcoded Rate Combined Mailings With Different Payment Methods.

See 583.4.

661.5 Combined Mailing Documentation Submission.

See 583.5.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 92-23824 Filed 10-2-92; 8:45 am]

BILLING CODE 7710-12-M

federal register

Monday
October 5, 1992

Part III

Department of the Interior

Bureau of Indian Affairs

Intent To Prepare an Environmental Impact Statement for the Navajo Ten-Year Forest Management Plan; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent to Prepare an Environmental Impact Statement for the Navajo Ten-Year Forest Management Plan; Apache County, AZ; McKinley & San Juan Counties, NM

AGENCY: Bureau of Indian Affairs, Interior

ACTION: Notice of intent and public scoping meeting.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs, with the cooperation of the Navajo Nation, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for the Navajo Ten-Year Forest Management Plan proposed for areas including the Navajo Indian Reservation forest located in Apache County, Arizona, McKinley and San Juan Counties, New Mexico. A description of the proposed project, location, and environmental consideration to be addressed in the EIS are provided below (see supplemental information). In addition to this notice, public meetings regarding the proposal and preparation of the EIS will be held.

This notice is to be published in accordance with the National Environmental Policy Act (NEPA) regulations found in 40 CFR 1501.7. The purpose of the notice is to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are encouraged.

ADDRESSES: Comments should be addressed to Walt Mills, Area Director, Navajo Area Office, P.O. Box 1060, Gallup, New Mexico 87305. Public scoping meetings were held September 21, 1992, at the Chinle Chapter House, from 6 p.m. to 9 p.m. (M.D.T.) in Chinle, Arizona and on September 28, 1992, at the Fort Defiance Community Chapter House from 6 p.m. to 9 p.m. (M.D.T.) in Fort Defiance, Arizona. The next public scoping meetings will be on October 5, 1992, at the Aneth Chapter House from 6 p.m. to 9 p.m. (M.D.T.) in Aneth, Utah; October 12, 1992, at the Dilcon Chapter House from 6 p.m. to 9 p.m. (M.D.T.) in Dilcon, Arizona; October 19, 1992, at the Shiprock Chapter House from 6 p.m. to 9 p.m. (M.D.T.) in Shiprock, New Mexico; October 26, 1992, at the Crownpoint Chapter House from 6 p.m. to 9 p.m. (M.D.T.) in Crownpoint, New Mexico; and November 2, 1992, at the Tuba City Chapter House from 6 p.m. to 9 p.m. (M.S.T.) in Tuba City, Arizona.

DATES: Comments should be received by November 20, 1992. Public Scoping Meetings were held on September 21, 1992, and September 28, 1992. The next public scoping meetings will be on October 5, 1992; October 12, 1992; October 19, 1992; October 26, 1992; and November 2, 1992.

FOR FURTHER INFORMATION CONTACT: Leonard Robbins, Environmental Quality Coordinator, Bureau of Indian Affairs, Navajo Area Office, P.O. Box 1060, Gallup, New Mexico 87305, telephone (505) 863–8286; C. Dexter Gill, Forest Manager, or Jonathan Martin, Forester I, telephone (602) 871–6449 and (602) 729–5165 respectively, Navajo Tribal Forestry Department, P.O. Box 308, Window Rock, Arizona 86515.

SUPPLEMENTARY INFORMATION: The Navajo Forest Management Plan will define the direction, scope and objectives for managing the natural resources of the Navajo commercial forest for the next 10 years. This plan will be produced by the Navajo Tribal Forestry Department using an interdisciplinary approach. It will allow the Navajo Nation to continue the management of its forest resources. The forest plan will address the environmental impacts of proposed management activities on Navajo forest lands located on the Defiance Plateau and the Chuska Mountains in northeastern Arizona and northwestern New Mexico. It will also define the harvest limits within a multiple-use sustained yield management scheme designed to enhance overall forest quality. The silvicultural procedures necessary bring the forest to desired conditions and the management principles intended to guide resource managers will be stated within the forest plan.

Dated: September 29, 1992.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 92–24060 Filed 10–02–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
October 5, 1992

Part IV

Department of the Interior

Bureau of Indian Affairs

Rosebud Sioux Indian Reservation, South Dakota; Environmental Impact Statement; Notice

DEPARTMENT OF THE INTERIOR

Rosebud Sioux Indian Reservation, South Dakota; Environmental Impact Statement

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of intent.

SUMMARY: This notice advises the public that the Bureau intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) on Livestock Grazing and Prairie Dog Management Programs for the Rosebud Sioux Indian Reservation, South Dakota. Public scoping meetings regarding this proposal and preparation of this EIS will also be held.

This notice is being furnished as required by the National Environmental Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are being solicited.

DATES: Written comments must be received by December 1, 1992. Two public meetings are scheduled on October 13, 1992 and October 14, 1992.

ADDRESSES: Comments should be addressed to Dr. Jerry Jaeger, Area Director, Bureau of Indian Affairs, Aberdeen Area Office, 115 4th Avenue, SE., Aberdeen, South Dakota, 57401. For further information contact Mr. Ken Parr, Bureau of Indian Affairs, Aberdeen Area Office, 115 4th Avenue, SE., Aberdeen South Dakota, 57401, telephone (605) 226–7621.

Public scoping meetings will be held at the RST Tribal Council Chambers on October 13, 1992 from 6 p.m. to 10 p.m. in Rosebud, South Dakota; and at the White River Community Events Center on October 14, 1992 from 6 p.m. to 10 p.m. in White River, South Dakota.

The September 1991 Environmental Assessment for the Prairie Dog Control Program: Cheyenne River and Rosebud Indian Reservations can be obtained upon written request to Ken Parr.

SUPPLEMENTARY INFORMATION: In 1991, the BIA began studying Tribal Council proposals to poison prairie dogs on the Cheyenne River and Rosebud Reservations. Soon after, the BIA completed an Environmental Assessment (EA) pursuant to NEPA and a biological assessment pursuant to the Endangered Species Act. At the time, the BIA lacked the sufficient personnel, time and funding to meet the U.S. Fish and Wildlife Service (USFWS) and NEPA requirements for analyzing the impacts on prairie dog/black-footed ferret habitat and various threatened, endangered, and candidate species, such as the bald eagle and swift fox. For the EA, the BIA only investigated the effects of prairie dog poisoning.

The USFWS issued a biological opinion pursuant to the Endangered Species Act that the proposed poisoning programs would jeopardize the survival and recovery of the black-footed ferret. The Defenders of Wildlife and the Sierra Club threatened suit if the BIA implemented the alternative of poisoning prairie dogs because it could jeopardize potential black-footed ferret recovery and violate the Endangered Species Act. The organizations also disagreed with the BIA's conclusion that the proposed poisoning would not significantly affect the environment. The BIA has since continued current management until it could prepare an EIS.

Livestock grazing on the Rosebud Sioux Indian Reservation contributes substantially to the economic livelihood of Indian landowners and livestock operators on the reservation. Livestock grazing also supports the Tribal government through permitting and leasing of Tribal trust lands.

In 1990, the Tribal Councils of the Rosebud and Cheyenne River Reservations requested funding from Congress for prairie dog control to maintain or improve the range condition and increase the number of livestock that could be grazed on these lands. Congress encouraged the BIA to work with the Tribes and the USFWS to reorient the program to avoid poisoning wherever possible and develop management programs that will allow livestock to coexist with prairie dogs.

The resulting EA analyzed prairie dogs and their habitat, the plant and wildlife species associated with prairie dog habitat, and livestock grazing. After the EA was completed, the Cheyenne River Sioux Tribal Council developed a plan to manage the entire prairie ecosystem, including prairie dog and livestock grazing management.

Therefore, at this time, the Cheyenne River Reservation will not be included in this EIS.

The Rosebud Sioux Tribe is planning to continue management programs by implementing livestock grazing management and chemical control of Prairie dogs.

The Rosebud Sioux Tribe proposed to restore the prairie ecosystem to a more natural state in which prairie dog populations are maintained at acceptable levels. This will be accomplished by using rodenticide control of all prairie dogs on all reservation lands and by maintaining and improving the range resource through range improvement practices consisting of but not limited to cross fencing, water development, mechanical treatments, replanting of tame and native grasses, implementation of a range use management plan to mitigate the reinfestation of prairie dog towns.

This proposed action will require 5 years for completion at an estimated cost of $5,947,020 for control work and an additional $9,905,545 for range improvements, totalling $15,852,565.

Significant issues to be considered in detail are impacts on blackfooted ferrets and the potential for recovery through reintroduction efforts; biodiversity in the prairie ecosystem; economic feasibility of the various methods of prairie dog control related to meeting livestock grazing and range management objectives; impacts on bald eagles, peregrine falcons, swift foxes, golden eagles, whooping cranes, and other species.

Additional alternatives that may be considered are continuing the current wildlife, livestock grazing, and prairie dog management programs (the "No Action" alternative); implementing livestock grazing and other appropriate management systems with no chemical control of prairie dogs; and implementing various combinations of livestock grazing management systems, other appropriate management systems, and prairie dog control programs.

This notice is published pursuant to § 1501.7 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371 *et seq.*), Department of the Interior Manual (516 DM 1–6) and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM–8.

Dated: September 29, 1992.

Eddie F. Brown,

Assistant Secretary, Indian Affairs.

[FR Doc. 92–24061 Filed 10–02–92; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
October 5, 1992

Part V

The President

Proclamation 6482—Mental Illness Awareness Week, 1992

Proclamation 6483—National School Lunch Week, 1992

Proclamation 6484—Columbus Day, 1992

Federal Register
Vol. 57, No. 193
Monday, October 5, 1992

Presidential Documents

Title 3—

The President

Proclamation 6482 of October 1, 1992

Mental Illness Awareness Week, 1992

By the President of the United States of America

A Proclamation

Advances in biomedical research and the behavioral sciences have dramatically improved our ability to prevent, diagnose, and treat mental illness—a public health problem that continues to call for greater public awareness and understanding.

Once clouded by mystery and shame, mental illness actually refers to a range of diseases, such as schizophrenia and depression, that may affect individuals of any age, race, or walk of life. In fact, it is estimated that as many as one-fourth of all Americans will suffer from a mental disorder at some point in their lives. The price to our Nation in terms of lost productivity, health care expenses, and other costs may total as much as $300 billion a year, according to the Department of Health and Human Services.

The suffering experienced by persons with mental illness is tremendous, as their conditions may deprive them of the ability to lead full, independent, and productive lives. Far too many of these individuals suffer from stigmatization by others as well, leading to a sense of rejection and alienation.

In order to dispel myths and misconceptions about mental illness and to help individuals and families who are affected by it, researchers in both the public and private sectors are working hard to unlock the secrets of the human mind. In recognition of their efforts and as a sign of our Nation's commitment to further progress in neuroscience, I proclaimed the 1990s the "Decade of the Brain." This is a time of unprecedented opportunity and hope as we work to promote the mental health and the overall well-being of all Americans.

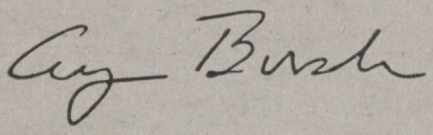
The National Institute of Mental Health, the Federal Government agency that funds most of the mental health research in the United States, is making a major effort to inform Americans about mental disorders and their treatment. In addition, under the ADAMHA Reorganization Act that I signed in July, the Federal Government will concentrate its services for persons who suffer from, or are vulnerable to, mental illness and addictive disorders. By integrating into the National Institutes of Health the National Institute of Mental Health, the National Institute on Drug Abuse, and the National Institute on Alcohol Abuse and Alcoholism, we will bring research on mental illness and addictive disorders into the mainstream of biomedical and behavioral research.

The Federal Government is, of course, joined in its efforts by many private researchers and voluntary organizations, including organizations that have been established by persons who have overcome mental illness. These individuals are helping to promote new scientific and medical breakthroughs while also educating the public about the prevention, diagnosis, and treatment of mental illness. This week, we salute all of these volunteers and professionals and reaffirm our support of their noble work.

The Congress, by Senate Joint Resolution 287, has designated the week of October 4 through October 10, 1992, as "Mental Illness Awareness Week" and has requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 4 through October 10, 1992, as Mental Illness Awareness Week. I invite all Americans to join with members of the health care community in observing this week with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-24324
Filed 10-2-92; 11:16 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6483 of October 1, 1992

National School Lunch Week, 1992

By the President of the United States of America

A Proclamation

When the National School Lunch Act was adopted in 1946, the United States affirmed its commitment "as a measure of National security, to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities and other food." Over the years the National School Lunch Program has brought nutritious meals to millions of school-age children, thereby fostering their physical and intellectual development. By helping to ensure that every student enters the classroom ready to learn, today's School Lunch Program contributes to a key aim of AMERICA 2000, our national strategy to achieve excellence in education.

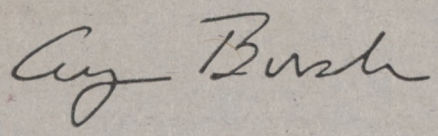
The National School Lunch Program currently provides wholesome, well-balanced meals to more than 24 million children daily. These lunches promote learning and achievement by giving children the energy and stamina that they need to pay attention and to participate in the classroom. School lunches also provide children with an opportunity to develop healthy eating habits for a lifetime.

Many improvements have been made in the School Lunch Program over the years, and Federal food assistance in our schools now includes a School Breakfast Program as well. Parents, principals, and teachers have joined with school food service personnel and Federal, State, and local officials in improving the quality, appearance, and nutritional value of school meals. Students have also become more aware of the importance of good nutrition and have become involved in nutrition advisory committees. This week, we recognize all of the professionals and volunteers who help to ensure the success of the School Lunch Program in more than 92,000 schools and residential child care institutions across the country.

In recognition of the contributions of the School Lunch Program to the health and well-being of children, the Congress, by joint resolution approved October 9, 1962 (Public Law 87–780), designated the week beginning on the second Sunday of October of each year as "National School Lunch Week" and requested the President to issue a proclamation in observance of that week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning October 11, 1992, as National School Lunch Week. I encourage all Americans to recognize the dedicated and hardworking individuals who contribute to the success of the School Lunch Program.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-24325
Filed 10-2-92; 11:17 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6484 of October 1, 1992

Columbus Day, 1992

By the President of the United States of America

A Proclamation

A half-millennium ago, one man who dared to defy the pessimists and naysayers of his day made an epic journey that changed the course of history. That man was Christopher Columbus, and the account of his first voyage to the Americas provides us with timeless lessons about faith and courage in the face of the unknown, about the power of individuals to make a difference, and about the rewards of cultural and commercial exchange among nations.

Behind the larger-than-life legends that have evolved around Columbus is an ordinary, fallible man who achieved extraordinary, unforgettable things—and through qualities that any of us might well emulate today.

As with all progress, Columbus' great journey began with learning and hard work. Before he became a master mariner, Columbus was first a diligent student and deckhand who gained his knowledge and skills in Lisbon, then Europe's leading center of overseas exploration. Thus it was with both a strong foundation and a profound sense of higher purpose that Christopher Columbus set sail toward the horizon. If we are to continue to cross new frontiers today, we must not only cherish knowledge and learning, as did the peoples of the Renaissance, but also have faith and courage in the face of the unknown.

Although Columbus was slow to shrink from ridicule and adversity, he was quick to seize an opportunity; and when the Spanish monarchs Ferdinand V and Isabella I agreed to support his daring enterprise, this brave son of Genoa quickly readied the *Niña*, the *Pinta*, and the *Santa Maria* for their long ocean voyage. The story of Columbus is, therefore, a fitting prologue to our American narrative, for the history of the United States is filled with accounts of individuals who made a difference because they had the freedom, the opportunities, and the wherewithal to do so.

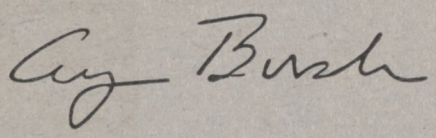
Columbus' first voyage to the Americas took just 33 days, yet it refuted centuries-old myths and transformed the lives of generations to come. The great encounter that was made possible by Columbus and his crew linked peoples on both sides of the Atlantic in a long and fruitful exchange of knowledge, resources, and ideas that continues to this day. Hence, on Columbus Day we celebrate both the rich heritage of America's native peoples and the development of the United States as a Nation of immigrants.

Finally, I am pleased to note that in many schools, teachers and students are planning to observe this Columbus Day with a special celebration of the 100th anniversary of our Pledge of Allegiance to the flag. Written in honor of Columbus Day a century ago, the Pledge has inspired generations of Americans to a greater love of country. As we celebrate the legacy of Columbus and the diverse cultural heritage of the United States, it is fitting that we also recall our many blessings—and responsibilities—as "one Nation, under God, indivisible, with liberty and justice for all."

The Congress, by joint resolution of April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has requested the President to proclaim the second Monday in October of each year as "Columbus Day."

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 12, 1992, as Columbus Day. I encourage all Americans to observe this day with appropriate ceremonies and activities. I also direct that the flag of the United States be displayed on all public buildings on the appointed day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of October, in the year of our Lord nineteen hundred and ninety-two, and of the Independence of the United States of America the two hundred and seventeenth.



[FR Doc. 92-24326
Filed 10-2-92; 11:18 am]
Billing code 3195-01-M

federal register

Monday
October 5, 1992

Part VI

Department of Agriculture

Farmers Home Administration

7 CFR Part 1980

Business and Industrial Loan Program; Final Rule

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1980

RIN 0575-AB35

Business and Industrial Loan Program

AGENCY: Farmers Home Administration and Rural Development Administration, USDA.

ACTION: Final rule with comment period.

SUMMARY: Effective immediately the Farmers Home Administration (FmHA) and Rural Development Administration (RDA) amend its guaranteed loan program regulations to provide procedures for guaranteeing loans to businesses impacted by natural disasters such as Hurricane Andrew, Hurricane Iniki, and Typhoon Omar as well as providing such assistance for certain injuries caused by microbursts of wind. This action is needed to implement provisions of the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102-368. The intended effect is to make loan guarantees available to businesses impacted by natural disasters.

DATES: Final rule effective October 5, 1992. Written comments must be received on or before November 4, 1992.

ADDRESSES: Submit written comments in duplicate to the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6348, South Agriculture Building, 14th and Independence, SW., Washington, DC, 20250. All written comments will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: M. Wayne Stansbery, Business and Industry Loan Specialist, Rural Development Administration, USDA, room 6327, 14th & Independence Avenue SW., Washington, DC 20250, Telephone (202) 720-6819.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291 and has been determined to be non-major. The annual effect on the economy is less than $100 million and there will be no significant increase in costs or prices for consumers, individual industries, organizations, governmental agencies or geographic regions. There will be 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.

Programs Affected

The Catalog of Federal Domestic Assistance program impacted by this action is: 10.422 Business and Industrial Loans.

Intergovernmental Review

As set forth in the final rule and related Notice to 7 CFR part 3015, subpart V, 48 FR 29112, June 24, 1983, Business and Industrial Loans are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. FmHA and RDA conduct intergovernmental consultation in the manner delineated in FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities."

Civil Justice Reform

This document has been reviewed in accordance with Executive Order 12778. It is the determination of FmHA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the Executive Order.

Regulatory Reform

The Department of Agriculture is committed to carrying out its statutory and regulatory mandates in a manner that best serves the public interest. Therefore, where legal discretion permits, the Department actively seeks to promulgate regulations that promote economic growth, create jobs, are minimally burdensome, and are easy for the public to understand, use, or comply with. In short, the Department is committed to issuing regulations that maximize net benefits to society and minimize costs imposed by those regulations. This principle is articulated in President Bush's January 28, 1992, memorandum to agency heads and in Executive Orders 12291 and 12498. The Department applies this principle to the full extent possible, consistent with law.

The Department has developed and reviewed this regulatory proposal in accordance with these principles. Nonetheless, the Department believes that public input from all interested persons can be invaluable to ensuring that the final regulatory product is minimally burdensome and maximally efficient. Therefore, the Department specifically seeks comments and suggestions from the public regarding any less burdensome or more efficient alternative that would accomplish the purpose described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this Notice.

Environmental Impact Statement

The action has been reviewed in accordance with 7 CFR part 1940, Subpart G, "Environmental Program." FmHA and RDA have determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required.

Final Rule With Comment Period

It is the policy of the Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, FmHA and RDA are making this action effective immediately upon publication in the Federal Register without securing prior public comment. The purpose of this rule is to provide assistance to businesses which have been devastated by natural disasters such as Hurricanes Andrew and Iniki and typhoon Omar. Due to the extent of the damage incurred by businesses and industries located in the areas of these disasters, an emergency situation exists. While this Department is reluctant to short circuit prior public comment, it is certain that failure to implement a mandated program at once will result in significant economic harm to the areas affected by the devastation wrought by the hurricanes and typhoon. FmHA and RDA believe it is essential that this assistance be made available as soon as possible before it is too late for the businesses to recover.

The legislative history of the Act indicates that Congress felt that quick response is needed to implement this disaster program in order to alleviate the effects of the devastation left by Hurricanes Andrew and Iniki and Typhoon Omar.

Public comments will be accepted for 30 days and later revisions will be made to this final rule if justified on the basis of comments received. This procedure will make assistance available now. Th usual course of a proposed rule, comment period, comment analysis, and a final rule incorporating changes would inevitably mean a 60- to 90-day delay in

getting assistance where it is most needed. Those seeking to comment and make suggestions for improvement should be advised that final action will occur as promptly as possible after the 30-day comment period.

Paperwork Reduction Act

The reporting and recordkeeping requirements contained in this regulation have been approved under an emergency clearance through December 1992 by the Office of Management and Budget and have been assigned OMB control number 0575–0029. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 70 hours per response, with an average of 6.1 hours 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0029), Washington, DC 20503.

Discussion of the Rule

FmHA and RDA are implementing provisions of the Dire Emergency Supplemental Appropriations Act by amending the existing regulations for the Business and Industry (B&I) loan program. B&I loans guaranteed under the authority of the Dire Emergency Supplemental Appropriations Act cover costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar that occur after August 23, 1992, and receive a Presidential declaration. Also included are the costs to any producer of crops and livestock that are a consequence of at least a 40 percent loss to a crop, 25 percent loss to livestock or damage to building structures from a microburst wind occurrence in 1992. Although part of the B&I program, loan guarantees made under this new authority will be called Business and Industry Disaster (BID) loans and will have some provisions different from other B&I loans.

The Act requires that BID loans be made available in both rural and nonrural areas and that businesses engaged in agriculture production be eligible. FmHA and RDA are making some additional provisions for BID loans different from other B&I loans. These differences include the following:

(1) When refinancing of existing debts is necessary, the lender may be allowed to bring previous exposure under the guarantee.

(2) Loans may be guaranteed for certain tourist or recreation facilities.

(3) The guarantee percentage for BID loans will not exceed 80 percent.

(4) The minimum equity requirements of the existing regulations will be relaxed and the full market value of collateral may be used for collateral analysis. In analyzing credit quality of proposed loans, the financial history and projections of the business will be emphasized.

(5) Conditional approval of loan guarantees may be given pending receipt of parts of the application package that are time consuming to obtain.

(6) The requirements of the existing regulations for audited financial statements will be relaxed.

(7) Specific portions of the existing regulations for FmHA Farm Operating and Farm Ownership loans will be adopted for BID loans to agricultural producers.

List of Subjects in 7 CFR Part 1980

Loan programs—Business and Industry—Rural development assistance, Rural areas.

Accordingly, chapter XVIII, title 7 of the Code of Federal Regulations is amended as follows:

PART 1980—GENERAL

1. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 7 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart E—Business and Industrial Loan Program

2. Section 1980.401 is amended by adding paragraph (f) to read as follows:

§ 1980.401 Introduction.

* * * * *

(f) This subpart and its appendices also contains regulations for Business and Industry Disaster (BID) loans under the authority of the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102–368. This program provides B&I guarantees for loans needed as a result of natural disasters. Some of the requirements of this subpart are waived or altered for BID loans. The waivers and alterations are provided in § 1980.498 of this subpart.

3. Section 1980.402 is amended by adding alphabetically definitions of *Business and Industry Disaster Loans, Hurricane Andrew, Hurricane Iniki, Microburst wind,* and *Typhoon Omar* to read as follows:

§ 1980.402 Definitions.

* * * * *

Business and Industry Disaster Loans. Business and Industry loans guaranteed under the authority of the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102–368. These guaranteed loans cover costs arising from the direct consequences of natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar that occur after August 23, 1992, and receive a Presidential declaration. Also included are the costs to any producer of crops and livestock that are a direct consequence of at least a 40 percent loss to a crop, 25 percent loss to livestock or damage to building structures from a microburst wind occurrence in calendar year 1992.

* * * * *

Hurricane Andrew. A hurricane that caused damage in southern Florida on August 24, 1992, and in Louisiana on August 26, 1992.

Hurricane Iniki. A hurricane that caused damage in Hawaii on September 11, 1992.

* * * * *

Microburst wind. A violently descending column of air associated with a thunderstorm which causes straight-line wind damage.

* * * * *

Typhoon Omar. A typhoon that caused damage in Guam on August 28, 1992.

* * * * *

4. Section 1980.498 is added to read as follows:

§ 1980.498 Business and Industry Disaster Loans.

(a) *Introduction.* This section contains regulations for the Business and Industry Disaster (BID) loan program. The purpose of the program is to provide loan guarantees under the authority of the Dire Emergency Supplemental Appropriations Act, 1992, Public Law 102–368. These guaranteed loans cover costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar that occur after August 23, 1992, and receive a Presidential declaration. Also included are the costs to any producer of crops and livestock that are a consequence of at least a 40 percent loss to a crop, 25 percent loss to livestock, or damage to building structures from a microburst wind occurrence in calendar year 1992. No application for a BID loan guarantee will

be accepted after July 31, 1993, and no BID loan guarantee will be approved after September 30, 1993. All provisions of subparts A and E of part 1980 of this chapter apply to BID loans, except as provided in this section. All forms used in connection with a BID loan will be those used with other Business and Industry (B&I) loans, except as provided in paragraph (m) of this section.

(b) Location of Applicants. (1) Section 1980.405 of this subpart, "Rural area determinations," will not apply to BID loans. BID loans may be made in rural and nonrural areas.

(2) Eligible borrowers' businesses must be located within the area covered by the Presidential declaration except for those with qualifying losses from microburst wind in accordance with paragraph (a) of this section.

(c) *Loan Purposes.* Loans may be guaranteed for the purposes listed in § 1980.411 of this subpart, "Loan Purposes," except as follows:

(1) *Relationship to disaster.* The purpose of any BID loan must be to cover costs that are a direct consequence of a natural disaster or microburst of wind in accordance with paragraph (a) of this section. The amount of the loan must not be greater than the amount needed as determined by the Rural Development Administration (RDA) to cure problems caused by the natural disaster so that the business is reestablished on a successful basis. Facilities which were damaged or destroyed by the natural disaster may be repaired or replaced by modern facilities as necessary to ensure success. Replacement by modern facilities will not be made solely for the purpose of enlarging the business or increasing its production capacity. No loan for a change of purpose of the business will be guaranteed. Eligible refinancing or working capital loans should not exceed the amount needed to overcome the financial distress caused by the disaster. Losses that were adequately paid by insurance or by loans or grants from other sources will not be covered by BID loans. BID loans may be used to supplement insurance payments and/or assistance from other sources when the insurance coverage or other assistance is not sufficient.

(2) *Refinancing.* Section 1980.452, Administrative C.1.(d) of this subpart does not apply to BID loans. If refinancing is needed as a direct consequence of the disaster, the lender may be allowed to bring previously unguaranteed exposure under the guarantee. No loan will be refinanced unless the current market value of the collateral is at least equal to the amount of the loan to be refinanced plus any new loan amount.

(3) *Agriculture.* Section 1980.412(e) of this subpart does not apply to BID loans. BID loans may be guaranteed for agriculture production, which means the cultivation, production (growing), and harvesting, either directly or through integrated operations, of agricultural products (crops, animals, birds, and marine life, either for fiber or food for human consumption), and disposal or marketing thereof, the raising, housing, feeding (including commercial custom feedlots), breeding, hatching, control and/or management of farm or domestic animals.

(4) *Other eligible businesses.* Eligible types of businesses also include:

(i) Commercial nurseries primarily engaged in the production of ornamental plants and trees and other nursery products such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds, sod, and the growing of vegetables from seed to the transplant stage.

(ii) Forestry which includes establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation.

(iii) The growing of mushrooms or hydroponics.

(5) *Recreation and tourism.* Loans may be guaranteed for tourist or recreation facilities except for hotels, motels, bed and breakfasts, race tracks, gambling, or golf courses.

(6) *Meat processing facilities.* The provisions of § 1980.411(a)(8) of this subpart will not apply to BID loans. Loans, including working capital or debt refinancing, may be guaranteed for businesses engaged in meat or poultry processing.

(d) *Federal Emergency Management Agency (FEMA).* BID loans may be approved only to the extent that the assistance is not available from FEMA. The case file will be documented to show that FEMA assistance was not available or that FEMA assistance is not adequate to cover the costs as a consequence of the natural disaster.

(e) *Small Business Administration.* Section 1980.451 of this subpart will not apply to BID loans. Applicants eligible for Small Business Administration assistance will be advised of the availability of that assistance.

(f) *Loan guarantee limits.* Notwithstanding the provisions of § 1980.420 of this subpart, the guarantee percentage on any BID loan will not exceed 80 percent.

(g) *Credit quality analysis.* In analyzing the credit quality of a proposed loan to a business that has lost assets to a natural disaster, primary emphasis will be placed on the operating history of the business, rather than its current financial condition. If the business has a sound, profitable and successful history prior to the disaster and there are reasonable projections to ensure it can operate successfully in the future, the proposed loan may be approved even if disaster losses have caused somewhat less equity and/or collateral than would normally be expected for a B&I guarantee. If the business appears to have had an unprofitable operation or inadequate cash flow prior to the disaster, the proposed loan guarantee will not be approved.

(h) *Equity requirements.* The equity requirements of § 1980.441 of this subpart do not apply to BID loans.

(i) *Feasibility studies.* Feasibility studies as required by § 1980.442 of this subpart will not be required for BID loans if the business has a successful financial history that supports future plans and projections that indicate a successful operation with adequate repayment ability.

(j) *Collateral.* Section 1980.443, Administrative A. 2., 3., and 4. of this subpart will not apply to BID loans. Collateral may be considered at its current market value without discount. Work-in-process inventory may be valued at the estimated market value of the finished product. All costs of producing the finished product must be included in the cash flow analysis.

(k) *Conditional approval.* A Form FmHA 449–14, "Conditional Commitment for Guarantee," may be issued prior to receipt of specific items needed to complete an application package provided:

(1) The lender and/or borrower demonstrates to the Government's satisfaction that it has a need for a prompt indication of the availability of the proposed loan guarantee and the conditions under which a guarantee are available;

(2) The specific items missing from the application package will take considerable time to obtain;

(3) The lender requests a commitment prior to providing the items;

(4) The attachment to Form FmHA 449–14 clearly states that the commitment is conditioned on satisfactory completion of the missing item(s) and a guarantee will not be issued unless all conditions of these regulations are met; and

(5) No Form FmHA 449–14 will be issued prior to the obligation date established with the Finance Office.

(l) *Financial statements.* All requirements of § 1980.451(i)(13) of this subpart will apply except that it is modified for BID loans to require minimum annual financial statements as follows:

(1) For nonagricultural borrowers with a B&I indebtedness of $500,000 or less, an annual compilation by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970.

(2) For nonagricultural borrowers with a B&I indebtedness of $500,001 through $1,000,000, an annual review by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970.

(3) For nonagricultural borrowers with a B&I indebtedness of more than $1 million, an annual audited financial statement by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970.

(4) All agricultural loans will require annual financial statements per § 1980.113(d)(7)(ii) of subpart B of part 1980 of this chapter.

(m) *Agriculture loans.* The following additional provisions apply to BID loan guarantees for businesses engaged in agriculture production:

(1) *General policy.* This portion of this section contains the regulations for making BID loans to farmers for agricultural purposes. BID loans made for agricultural purposes are subject to the provisions in subparts A and E of part 1980 of this chapter except as specified. In addition, certain sections of subpart B of part 1980 of this chapter referenced in this section are applicable subject to the limitations outlined in this section. BID loans made for agricultural purposes are made under the Business and Industry authority of section 310B of the Consolidated Farm and Rural Development Act of 1972, as amended. In this regard, several key loan processing and loan servicing requirements stipulated in subpart B of part 1980 of this chapter do not apply to loans made to borrowers under this section. Only the material cross-referenced to subpart B of part 1980 of this chapter is to be utilized in lieu of or in addition to the requirements contained in subpart E of part 1980 of this chapter in processing loans under this section.

(2) *Type of guarantee.* See § 1980.101(e)(1) of subpart B of part 1980 of this chapter. BID loans will be processed under the Loan Note Guarantee option ONLY. No loan will be processed for a Contract of Guarantee (Line of Credit) under this section.

(3) *Abbreviations and definitions.* (i) The abbreviations and definitions found in § 1980.106 of subpart B of part 1980 of this chapter will apply to loans made under this section except for § 1980.106(b) (7), (19), and (22) of subpart B of part 1980 of this chapter.

(ii) Loan guarantees may be made under the BID program without regard to the size of the farming operation.

(4) *Loan eligibility requirements.* In addition to the requirements set forth in this subpart, the requirements in § 1980.175(b) of subpart B of part 1980 of this chapter regarding controlled substances are applicable.

(5) *Filing and processing Preapplications and applications.* Section 1980.113 of subpart B of part 1980 of this chapter will apply with the following exceptions:

(i) Lines of credit will not be guaranteed.

(ii) Timeframes for applicant/lender notification in § 1980.113 of subpart B of part 1980 of this chapter do not apply.

(iii) If the application is submitted solely for a farm as defined in § 1980.106(b)(8) of subpart B of part 1980 of this chapter, Form FmHA 410–1, "Application for FmHA Services," or Form FmHA 449–1, "Application for Loan and Guarantee," will be used as an application for assistance.

(iv) Section 1980.113, Administrative A. and B. of subpart B of part 1980 of this chapter are applicable to receiving and processing applications for agricultural loans under this section.

(6) *Evaluation of applications.* The provisions outlined in § 1980.114 of subpart B of part 1980 of this chapter apply with the following exceptions:

(i) Timeframe requirements for the evaluation of applications and references to the Approved Lender Program are not applicable.

(ii) County Committee reviews of applications processed under this section will not be required. If the loan approval official finds the applicant is not eligible, the applicant will be notified in writing of the reasons for disapproval and the opportunity given for an appeal as set out in subpart B of part 1900 of this chapter.

(7) *Terms of loan repayment.* (i) Principal and interest on the loan will be due and payable to coincide with the cash flow operating cycle of the business. Installments will be scheduled for payment as agreed upon by the lender and borrower on terms that reasonably assure repayment of the loan. The first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income. However, such installment will be due and payable within 6 years from the date of the debt instrument and at least annually thereafter. All accrued interest will be due at least annually from the date of the debt instrument. In no case will interest be deferred. In granting a deferral of principal payment, the loan approval official must document based on pro forma financial statements and the nature of the crop that the deferral of payments is necessary.

(ii) The lender must ensure that loan repayment is scheduled to eliminate the possibility of a balloon payment at the end of the loan.

(8) *BID loan purposes.* Loans may be made only for the following purposes:

(i) Operating purposes as outlined in § 1980.175(c)(1) of subpart B of part 1980 of this chapter except for those stipulated in paragraphs (c)(1) (iv) and (vii) of that section.

(ii) Real estate purposes as outlined in § 1980.180(c) of subpart B of part 1980 of this chapter except for those stipulated in paragraphs (c) (1) and (4) of that section.

(9) *Sodbuster and swampbuster requirements.* The provisions of exhibit M of subpart G of part 1940 of this chapter will apply to loans made to enterprises engaged in agricultural production.

Dated: September 30, 1992.

La Verne Ausman,

Administrator, Farmers Home Administration.

Mary Ann Baron,

Administrator, Rural Development Administration.

[FR Doc. 92–24291 Filed 10–2–92; 11:19 am]

BILLING CODE 3410–07–M

Reader Aids

Federal Register

Vol. 57, No. 193

Monday, October 5, 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	523-3187
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	512-1557

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, OCTOBER

45261–45558.....1
45559–45708.....2
45709–45972.....5

CFR PARTS AFFECTED DURING OCTOBER

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.

3 CFR

Proclamations:
6482.....45961
6483.....45963
6484.....45965

Executive Orders:
12775 (Continued by Notice of September 30, 1992).....45557
12779 (Continued by Notice of September 30, 1992).....45557
12813 (Amended by EO 12815).....45709
12815.....45709

Administrative Orders:

Notices:
September 30, 1992.....45557

5 CFR

630.....45261

Proposed Rules:
835.....45753

7 CFR

916.....45559
917.....45559
948.....45560
1065.....45562, 45563
1137.....45564
1494.....45262
1980.....45968

Proposed Rules:
910.....45581
944.....45754
1106.....45583

10 CFR

30.....45566
35.....45566

12 CFR

327.....45263

Proposed Rules:
1.....45756
567.....45757
935.....45338
940.....45338

14 CFR

Proposed Rules:
39.....45584–45586
71.....45660

16 CFR

Proposed Rules:
4.....45676

17 CFR

210.....45287
240.....45287
249.....45287
259.....45287
274.....45287

19 CFR

Proposed Rules:
10.....45758

20 CFR

404.....45878

21 CFR

5.....45294
310.....45310

Proposed Rules:
1401.....45353

24 CFR

888.....45468

26 CFR

1.....45568, 45660, 45711, 45878
43.....45713
602.....45711

Proposed Rules:
1.....45587
301.....45759

27 CFR

Proposed Rules:
9.....45588
17.....45357
19.....45357
70.....45357
170.....45357
194.....45357
197.....45357
250.....45357

29 CFR

1602.....45570
2602.....45713

30 CFR

917.....45295

33 CFR

100.....45570

Proposed Rules:
151.....45591
164.....45662–45667
165.....45596

37 CFR

202.....45307

39 CFR

20.....45570
111.....45882

40 CFR

35.....45311
52.....45715
271.....45514, 45717–45722
272.....45575
Proposed Rules:
Ch. I.....45597
52.....45358, 45360
63.....45363
300.....45597, 45599

42 CFR

57.....45725

43 CFR

Public Land Orders:
1567 (Revoked in part by PLO 6948).....45325
5712 (Revoked by PLO 6946).....45322
6944.....45321
6946.....45322
6948.....45324
6949.....45576
6950.....45725

45 CFR

1224.....45325

46 CFR

Proposed Rules:
35.....45667

47 CFR

0.....45747
73.....45577–45579
87.....45748
90.....45751
Proposed Rules:
73.....45601

48 CFR

30.....45422
52.....45878
202.....45422
204.....45422
208.....45422
210.....45422
214.....45326
215.....45422
216.....45422
219.....45422
223.....45422
225.....45422
226.....45422
227.....45422
228.....45422
231.....45422
232.....45422
236.....45422
237.....45422
239.....45422
242.....45422
245.....45422
252.....45422
253.....45422
Proposed Rules:
5415.....45759
5452.....45759

49 CFR

107.....45446
171.....45442, 45446
172.....45446
173.....45446
174.....45446
176.....45446
177.....45446
178.....45446
179.....45446
180.....45446
214.....45446
571.....45327, 45422
1023.....45751
Proposed Rules:
552.....45759
571.....45760
1039.....45602

50 CFR

17.....45328
285.....45579
661.....45751
672.....45580
Proposed Rules:
17.....45761, 45762
675.....45602

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 October 2, 1992

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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1991. The CFR volume issued January 1, 1987, should be retained.

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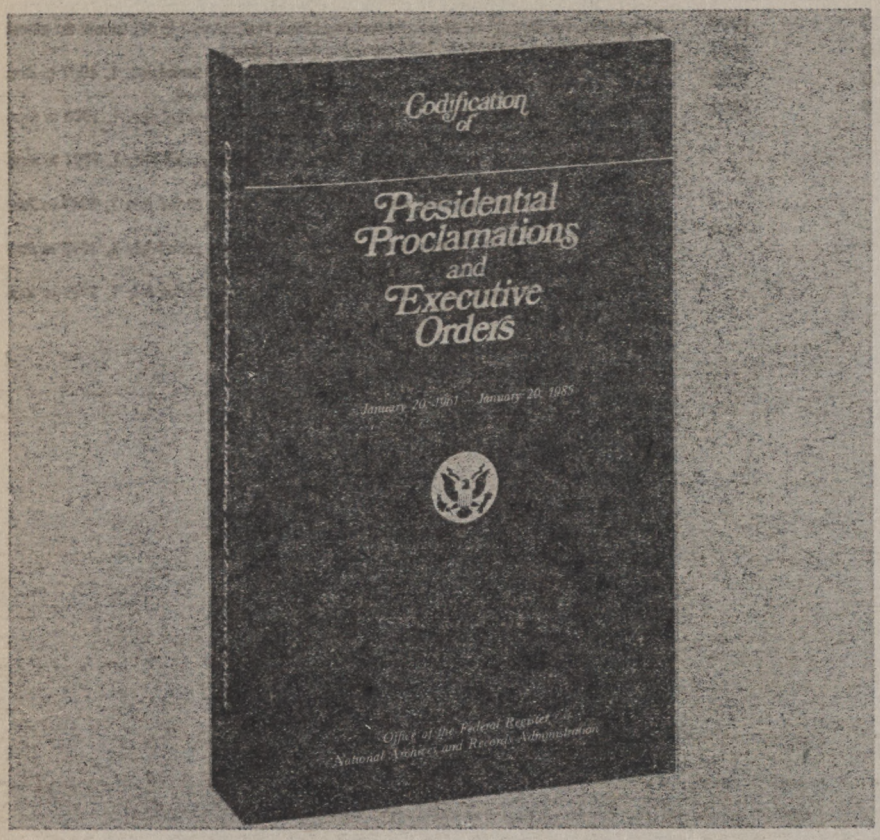
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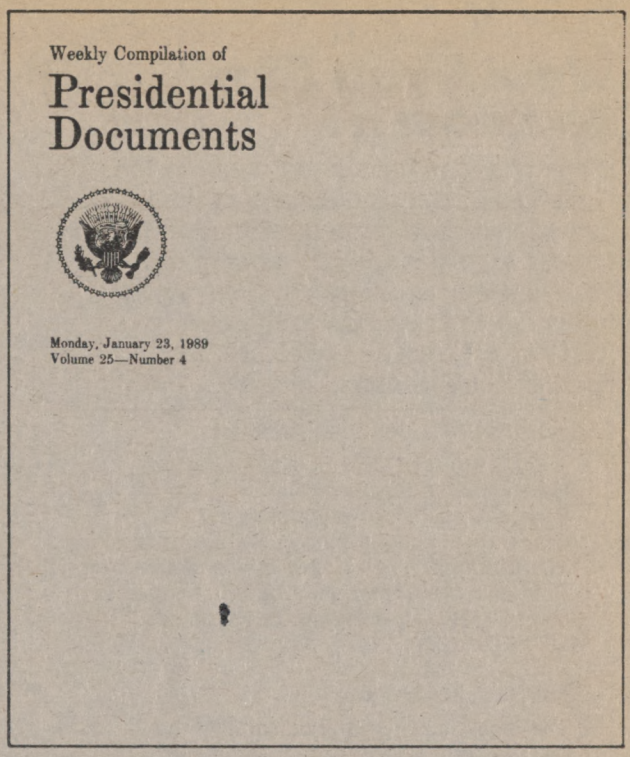
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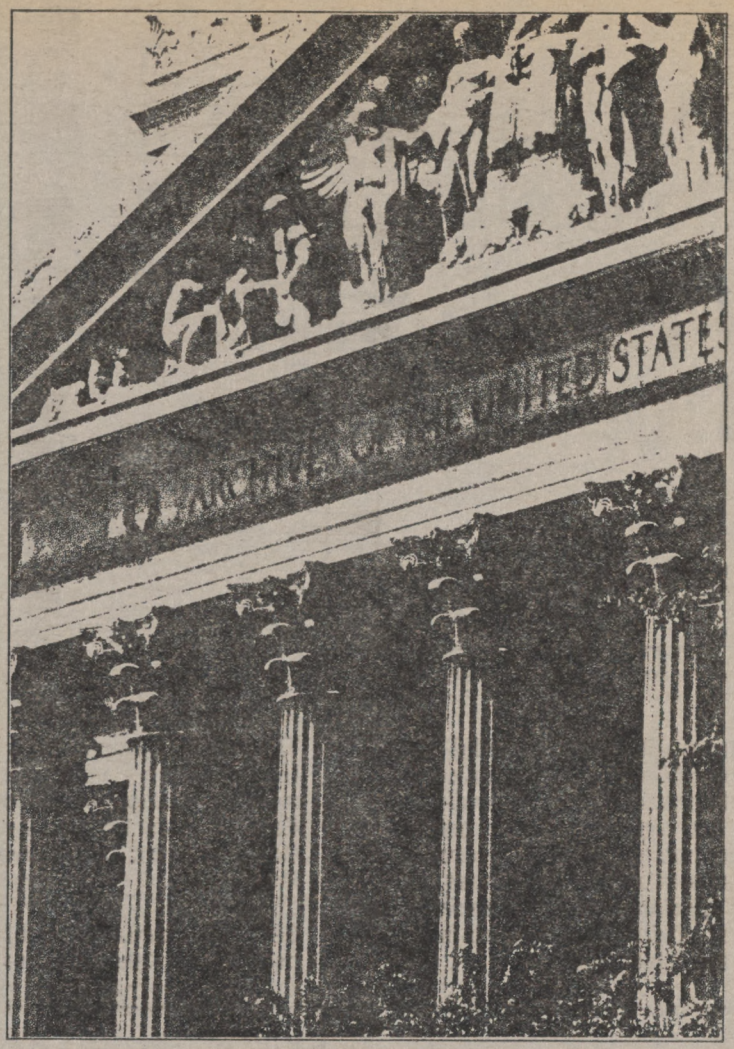
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