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Presidential Documents

Title 3—

The President

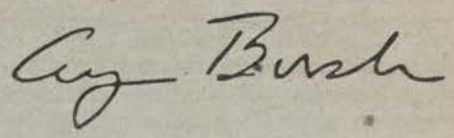
Presidential Determination No. 93–7 of January 5, 1993

Determination Pursuant to Public Law 101–513, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and Public Law 102–145, the Joint Resolution on Further Continuing Appropriations for October 1, 1991, through March 1992

Memorandum for the Secretary of State

Pursuant to Public Law 101–513, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, as made applicable to FY 1992 by the Joint Resolution on Further Continuing Appropriations, Fiscal Year 1992 (Public Law 102–145) (the Appropriations Laws), I hereby certify that it is in the national interest to obligate funds appropriated for payment to the International Development Association during FY 1992 but previously withheld from obligation under the Appropriations Laws.

You are directed to publish this determination in the **Federal Register** and report it to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.



THE WHITE HOUSE,
Washington, January 5, 1993.

[FR Doc. 93–991
Filed 1–11–93; 3:33 pm]
Billing code 3195–01–M

Presidential Documents

Executive Order 12830 of January 9, 1993

Establishing the Military Outstanding Volunteer Service Medal

By the authority vested in me as President by the Constitution and the laws of the United States of America, and as Commander in Chief of the Armed Forces, it is hereby ordered as follows:

Section 1. There is hereby established a Military Outstanding Volunteer Service Medal, with accompanying ribbons and appurtenances, for award by the Secretary of Defense or, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation. Members of the Armed Forces of the United States (including Reserve components) who perform outstanding volunteer service to the civilian community of a sustained, direct, and consequential nature are eligible for the medal.

Sec. 2. The Military Outstanding Volunteer Service Medal and ribbons and appurtenances thereto shall be of appropriate design approved by the Secretary of Defense. The Secretary of Defense shall prescribe regulations to govern the award and wear of the Military Outstanding Volunteer Service Medal. The regulations shall place the Military Outstanding Volunteer Service Medal in order of precedence immediately after the Humanitarian Service Medal.

Sec. 3. No more than one award of the Military Outstanding Volunteer Service Medal may be made to any one person, but for each subsequent act justifying such an award, a suitable device may be awarded to be worn with that medal as prescribed by appropriate regulations issued by the Secretary of Defense.

Sec. 4. The Military Outstanding Volunteer Service Medal may be awarded posthumously, and when so awarded, may be presented to such representatives of the deceased as may be deemed appropriate by the Secretary of Defense or, in the case of a member of the Coast Guard when it is not operating as a service in the Navy, the Secretary of Transportation.

George Bush

THE WHITE HOUSE,
January 9, 1993.

[FR Doc. 93–947
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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1410

RINS 0560–AC66 and 0560–AC93

Amendments to the Conservation Reserve Program Regulations Regarding Small Wetlands and Other Statutory Requirements

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This action covers four general areas. First, the final rule adopts, with changes, the proposed rule published on June 25, 1992, at 57 FR 28468 concerning the eligibility of small farmed wetlands to be enrolled in the Conservation Reserve Program (CRP). This allows producers greater flexibility in both enrolling and achieving enhanced environmental benefits under CRP. Second, the regulations are amended to incorporate certain nondiscretionary changes regarding limited grazing and easement requirements of the CRP, as required by the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (the 1991 Act) (Pub. L. 102–237) and legislation entitled "To Amend the Food Security Act of 1985 To Remove Certain Easement Requirements Under the Conservation Reserve Program and for Other Purposes" (the 1992 Act) (Pub. L. 102–324). Third, the regulations are amended to be consistent with the Wetlands Reserve Program (WRP) provisions relative to CRP participants offering eligible wetlands for enrollment into the WRP. The WRP final rule was published on June 4, 1992 (57 FR 23908). Fourth, the regulations are amended to ensure clarity and accuracy.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, DC 20013–2415; phone 202–720–6221.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512–1 and has been classified as "nonmajor." It has been determined that these provisions will not result in: (1) An annual effect on the national economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, State or local agencies, or geographic regions; or (3) 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.

It has been determined by an environmental evaluation that this action will not adversely affect the environmental, historical, social, or economic resources of the Nation. Therefore, it has been determined that these actions will not require an Environmental Assessment nor an Environmental Impact Statement.

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

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive and do not preempt State laws. Before any judicial action may be taken with respect to the provisions of this final rule, administrative remedies at 7 CFR part 780 must be exhausted.

The title and number of the Federal Domestic Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are Conservation Reserve Program—10.069.

The information and collection requirements of this final rule at 7 CFR part 1410 have been submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1980. A response from OMB regarding the information collection approval is forthcoming.

The public reporting burden for the information collections required by this final rule is estimated to be 7 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Current Regulations

The current regulations in 7 CFR part 1410, published as a final rule on April 19, 1991 (56 FR 15980), implemented the Environmental Conservation Acreage Reserve Program, which consists of CRP and WRP.

The intent of CRP is to permit the Commodity Credit Corporation (CCC) to enter into contracts with owners and operators of highly erodible and other environmentally sensitive cropland to assist such owners and operators in conserving and improving the Nation's soil and water resources. By entering into a contract, the owner or operator agrees to implement a conservation plan approved by the local Conservation District for converting highly erodible cropland normally devoted to the production of an agricultural commodity to a less intensive use. CCC provides (1) technical assistance by way of a conservation plan, (2) financial assistance for the costs of establishing the conservation practices required by the conservation plan, and (3) annual land rental payments to compensate the owner or operator for taking the cropland out of production.

The current regulations address the following terms and conditions of the CRP for enrollment during 1991 through 1995: (1) eligibility of land; (2) duration of contracts; (3) obligations of participants and CCC; (4) eligible practices; (5) levels of cost-share for establishing practices; (6) provisions for annual rental payments; (7) handling of violations; and (8) other program matters.

With respect to land eligibility, § 1410.103 provides that the Secretary of Agriculture (Secretary) may consider certain lands to be eligible for CRP if a useful life easement is created for the practice. Further, § 1410.103 prohibits the enrollment of farmed wetlands otherwise eligible for CRP.

Section 1410.108 permits, if approved by CCC, land subject to an existing CRP

contract to be enrolled into WRP, provided that (1) the application for transfer into WRP is made during the first or second available signup for intention period under the WRP for the State, and (2) all funds and benefits paid under the CRP contract were refunded with interest.

Section 1410.110 generally prohibits any harvesting, or grazing, or other commercial use of the forage on land subject to a CRP contract, except that the Secretary could permit fall and winter grazing of grass waterways where the grazing is incidental to the gleaning of crop residue on the fields in which the grass waterways are located for an applicable reduction in rental payment.

Statutory Changes

Title XII of the Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act) (Pub. L. 101–624) enacted on November 28, 1990, amended the Food Security Act of 1985 (the 1985 Act) (Pub. L. 99–198) with respect to CRP. Section 1232(a)(7) of the 1990 Act was amended on December 13, 1991, by the 1991 Act to specify that the Secretary may permit incidental grazing of CRP (1) during the 7-month period in which grazing of conserving use acreage is allowed in a State under the price support programs, or (2) after the producer harvests the grain crop of the surrounding field. In either case, the CRP rental payment must be reduced commensurate with the limited economic value of such incidental grazing.

The 1992 Act amended section 1231(b)(4)(C) and section 1235A(a)(2) of the 1985 Act, as amended, to remove certain easement requirements under CRP.

Other Changes

This rule also (1) amends the regulations in 7 CFR 1410.108 to reflect consistency with the final rule for WRP published at 7 CFR part 703 on June 4, 1992, (2) corrects a typographical error, (3) includes minor editorial changes for clarity, and (4) due to further review of statutory authority, removes the provision that payments made under part 1410 are subject to the regulations under 7 CFR part 796—Denial of Program Eligibility for Controlled Substance Violation.

CRP will continue to be implemented by CCC through the Agricultural Stabilization and Conservation Service (ASCS) using ASCS's State and county offices.

Discussion of Comments

CCC received five comments concerning the proposed rule published on June 25, 1992, at 57 FR 28468. Entities responding included a State farm organization, a national farm organization, two national wildlife organizations, and a member of Congress. The discussion of comments that follows is organized in the same sequence as the final rule.

Thus, all the changes made by this final rule are based on a combination of the public comments to the proposed rule, recent legislative changes and other statutory requirements, CCC's experience in administering CRP since inception, and the need for clear, current, and consistent regulations.

Section 1410.103 Eligible Land

Three comments supported the inclusion of small farmed wetlands as land eligible to be enrolled in CRP, stating that the proposal would not interfere with the enrollment of eligible land into WRP, and this expansion of cropland eligibility would further enhance the improvement of soil and water resources. Two additional comments supported the concept and recommended that the approved plan provide for the continued protection of the eligible small wetland areas and that these areas be contained in fields that are otherwise eligible for CRP. Although this was the intent of the proposed rule, the final rule has been clarified to ensure that the small farmed wetlands to be enrolled are (1) limited to small areas included in otherwise eligible fields, and (2) guaranteed enduring protection under the approved conservation plan.

List of Subjects in 7 CFR Part 1410

Administrative practices and procedures, Conservation plan, Contracts, Easements, Environmental indicators, Natural resources, and Technical assistance.

Accordingly, 7 CFR part 1410 is amended as follows:

PART 1410—1991–95 CONSERVATION RESERVE PROGRAM

1. The authority citation for 7 CFR part 1410 continues to read as follows:

Authority: 15 U.S.C. 714b and 714c; 16 U.S.C. 3831–3847.

§ 1410.13 [Amended]

2. Section 1410.13 is amended by removing paragraph (a) and designating paragraphs (b), (c), and (d) as paragraphs (a), (b), and (c).

3. Section 1410.103 is amended by:

A. Revising paragraphs (d)(2), (d)(3), and (d)(4); and

B. Revising paragraph (f)(2) to read as follows:

§ 1410.103 Eligible land.

* * * * *

(d) * * *

(2) Land devoted to living snowfences, windbreaks, wildlife habitat, shelterbelts or filterstrips with trees or shrubs;

(3) Land devoted to newly created permanent grass waterways or contour grass sod strips created after November 28, 1990, which are established and maintained according to an approved conservation plan;

(4) Non-irrigated or irrigated cropland which produce, as determined by the Deputy Administrator, saline seeps or which are functionally related to such saline seeps, or where a rising water table contributes to increased levels of salinity at or near the ground surface.

* * * * *

(f) * * *

(2) Farmed wetlands which may be eligible for the Wetlands Reserve Program (WRP) under 7 CFR part 703, except this restriction shall not apply to small farmed wetlands contained in, and are a part of, fields that are otherwise eligible for CRP as determined by CCC.

§ 1410.108 [Amended]

4. Section 1410.108 is amended as follows:

A. The introductory sentence is amended by removing the phrase "provided that" and all that follows to and including "prior to October 1, 1992;" and inserting in lieu thereof the following: "provided that such offer for transfer occurs during the first or second available signup for intention period under the WRP for the State and agreed to by ASCS. Transfers on offers submitted after the second available WRP signup period within a State will only be permitted if the owner agrees to refund all payments received under CRP since the close of the second available WRP signup period within the State"; and

B. Paragraph (b) is amended by removing the word "letter" and inserting the word "title" in its place.

5. Section 1410.110 is amended by revising paragraph (d) to read as follows:

§ 1410.110 Obligations of the Commodity Credit Corporation.

* * * * *

(d) Permit grazing of grassed waterways on CRP land where the grazing is incidental to the gleaning of crop residues on fields where the contracted land is located, such incidental grazing is limited to the 7-month period in which grazing of conservation use acreage is allowed, as

determined by CCC, in a State under the Agricultural Act of 1949 (7 U.S.C. 1421 *et seq.*), or after the producer harvests the grain crop of the surrounding field. Further, CCC must provide prior approval of the incidental grazing of the CRP in exchange for an applicable reduction in the annual rental payment, as determined appropriate by the Deputy Administrator.

Signed at Washington, DC on January 5, 1993.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–759 Filed 1–12–93; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Part 1900

Reporting Authorities for Internal Processing of Appeals Cases

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding designated reporting authorities for internal processing of appeals cases. This action is necessary due to Agency provisions which require certain Agency officials to make decisions for cases in the appeal process. The intended effect is to ensure correct processing of appeals.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Barton, Community Facilities Division, Farmers Home Administration, room 6314, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1504.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291. Since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish, for comment, rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rule making since it involves only internal Agency management and publication for comment is unnecessary. Community and Business Programs have been assigned to the Rural Development Administration (RDA), and RDA is now administering this program. RDA is utilizing FmHA regulations which makes it necessary to establish the organizational structure of RDA's reporting authorities for its Regional Office operations. Specifically, Exhibit D of subpart B of part 1900 is amended to include RDA personnel as decision makers for RDA cases involved in appeals.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has 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.

Intergovernmental Review

The programs administered will be listed in the Catalog of Federal Domestic Assistance and will be subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. This action affects the following programs:

10.414 Resource Conservation and Development Loans;
10.418 Water and Waste Disposal Systems for rural communities;
10.419 Watershed Protection and Flood Prevention;
10.422 Business and Industrial Loans;
10.423 Community Facilities Loans;
10.424 Rural Development Grants;
10.434 Nonprofit National Corporation;
10.436 Technical Assistance and Training Grants;
10.438 Intermediary Relending Program;
10.440 Emergency Community Water Assistance Grants.

FmHA conducts intergovernmental consultation in the manner delineated in FmHA Instruction 1940–J. Programs 10.414, 10.418, 10.419, 10.422, 10.423, and 10.438 are subject to the provisions of E.O. 12372; the remaining programs affected are not subject to this provision.

List of Subjects in 7 CFR part 1900

Appeals, Credit, Loan programs—Housing and community development.

Accordingly, part 1900 of chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1900—GENERAL

1. The authority citation for part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

2. Exhibit D of subpart B is revised to read as follows:

Exhibit D of Subpart B—Hearings/Review Officer Designations

HEARING/REVIEW OFFICER DESIGNATIONS

Decisionmaker or decision	Hearing officer	Review officer
County Supervisor	National Appeals Staff Hearing Officer	State Director and/or Director, National Appeals Staff.
County Committee	National Appeals Staff Hearing Officer	State Director and/or Director, National Appeals Staff.
*District Director, *State Program Chief, *District Specialist.	National Appeals Staff Hearing Officer	**State Director and/or Director, National Appeals Staff.
*State Director, *Regional Director	As appointed by Director, National Appeals Staff	Director, National Appeals Staff.
Division Director or Assistant Administrator	As appointed by Director, National Appeals Staff	Director, National Appeals Staff.
Assistant Administrator	As appointed by Director, National Appeals Staff	Director, National Appeals Staff.
Deputy or Associate Administrator	As appointed by Director, National Appeals Staff	Director, National Appeals Staff.

*Decisionmaker for Rural Development Administration (RDA) cases for Regional Office Operations.
**Review officer will be the Regional Director and/or the Director, National Appeals Staff for RDA cases.

Notes

1. District Director also means Assistant District Director or District Loan Specialist.

2. County Supervisor also means Assistant County Supervisor with loan approval authority.

3. The Director of the National Appeals Staff may designate a staff member to conduct a hearing or review. When the hearing/review is completed,

the designee will send the complete case file, hearing notes, tape recordings, and a recommended decision to the Director for a final decision. The Director may, for individual cases, delegate final decision authority to a designee.

4. For decisions not directly covered above, advice should be sought from the Director of the National Appeals Staff.

5. An appellant may elect to have an appeal reviewed by the State Director, or the Director of the National Appeals Staff. The decision of the State Director will be subject to further review by the Director of the National Appeals Staff upon request of the appellant.

Dated: December 10, 1992.

LaVerne Ausman,

Administrator, Farmers Home Administration.

Dated: December 9, 1992.

Mary Ann Baron,

Administrator, Rural Development Administration.

[FR Doc. 93–707 Filed 1–12–93; 8:45 am]

BILLING CODE 3410–07–M

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7 CFR Part 1951

Delegation of Authority

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment to the Farmers Home Administration (FmHA) regulations is to specify that when FmHA State Directors are delegated exception authority in certain situations in accordance with § 1951.916 of 7 CFR, subpart S of part 1951, the request for the exception will not require the recommendation of the appropriate Program Assistance Administrator. This will eliminate the requirement that the request be sent to the FmHA National Office. The intended effect is to speed up the processing of exceptions in specific situations where there is an urgent need for quick action.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT:

Arthur V. Hall, Director, Loan Servicing and Property Management Division, Farmer Programs, Farmers Home Administration, USDA, room 5449, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone (202) 720–4572.

SUPPLEMENTARY INFORMATION:

Programs Affected

These changes affect the following FmHA programs as listed in the catalog of Federal Domestic Assistance:

10.404 Emergency Loans
10.406 Farm Operating Loans
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans (Section 502 Rural Housing Loans)
10.416 Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." It is the determination of FmHA 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.

Background

FmHA Farmer Program borrowers in the States of Florida and Louisiana who were in the arrears on their FmHA loan installments were notified of FmHA servicing options available to them prior to devastation of Hurricane Andrew. They had 60 days to respond to the notices. However, Hurricane Andrew knocked out utility services, disrupted mail service, destroyed homes, etc., in these areas. This made it impossible for all the notified FmHA Farmer Program borrowers to respond to the notices within the 60-day timeframe. Therefore, it was necessary to issue a temporary change in FmHA Instructions to allow the Administrator to delegate exception authority to these two State Directors to allow an exception to the 60-day response requirement for some borrowers in these designated disaster areas without a recommendation by the Program Assistant Administrator. This temporary Instruction change was immediately necessary to avoid further panic and distress to farmers whose farms were devastated by Hurricane Andrew and were unable to promptly respond to the notices for much needed assistance. To avoid the necessity of making a temporary change in FmHA Instructions in the future, FmHA is revising its regulations to provide for this internal administrative authority.

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291. It has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

List of Subjects in 7 CFR Part 1951

Accounting servicing, Credit, Debt restructuring, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing.

Accordingly, part 1951 of chapter XVIII, title 7, Code of Federal Regulations, is amended as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 41 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart S—Farmer Programs Account Servicing Policies

2. Section 1951.916 is revised to read as follows:

§ 1951.916 Exception authority.

The Administrator or delegate may, in individual cases, make an exception to any requirement or provision of this subpart or address any omission of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that the Government's interest would be adversely affected. The Administrator will exercise this authority upon request of the State Director with recommendation of the appropriate Program Assistant Administrator, or upon request initiated by the appropriate Program Assistant Administrator. In certain situations such as a natural disaster, the Administrator may delegate this authority to specific State Director positions in certain states. In such cases, the State Director will exercise the delegation of authority upon the request of the County Supervisor with the recommendation of the District Director, rather than the appropriate Program Assistant Administrator. Requests for exceptions must be made in writing and supported with documentation to explain the adverse effect, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

Dated: December 11, 1992.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 93–708 Filed 1–12–93; 8:45 am]

BILLING CODE 3410–07–M

7 CFR Part 1965

Single Family Housing Security Servicing

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) amends its security servicing regulation for single family housing loans to clarify that whether or not the loan is subject to recapture will not be changed by virtue of a same rates and terms assumption. This has been FmHA policy since the recapture program was started in 1979. It was through oversight that this statement was erroneously omitted from the regulation as this was not proposed to be changed at the time revisions were made to this regulation effective August 24, 1988 (53 FR 27819).

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jean F. Leavitt, Senior Loan Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, South Agriculture Building, room 5309, Washington, DC 20250, telephone: (202) 720–1452.

SUPPLEMENTARY INFORMATION: This regulation is revised to add a statement that whether or not the loan is subject to recapture will not be changed by virtue of a same rates and terms assumption. This statement was included in the regulation prior to August 1988. Through oversight it was erroneously omitted at the time revisions were made to the regulation effective August 24, 1988.

List of Subjects in 7 CFR Part 1965

Administrative practice and procedure, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mortgages, Rural areas.

Accordingly, chapter XVIII, title 7, Code of Federal Regulations is corrected as follows:

PART 1965—REAL PROPERTY

1. The authority citation for part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart C—Security Servicing for Single Family Rural Housing Loans

2. In § 1965.126, the introductory text of paragraph (c)(2) is revised to read as follows:

§ 1965.126 Transfer of property with assumption of indebtedness.

* * * * *

(c) * * *

(2) In the situations outlined in paragraphs (b)(12) and (c)(2)(i), (c)(2)(ii) and (c)(2)(iii) of this section only, the assuming party will execute an assumption agreement to assume the indebtedness on the existing terms; unless, due to more favorable terms available at the time, the assuming party desires to assume the loan on new terms. If the assuming party desires to assume the loan on new terms, all eligibility requirements of subpart A of part 1944 of this chapter must be met. If a same terms assumption is consummated, FmHA's accounting records will change to reflect the name and case number of the assuming party. Same terms assumptions under this paragraph are authorized without considering the assuming party's eligibility for program assistance. The interest rate, final due date, payment date, account status (current, delinquent, ahead of schedule) and whether or not the loan is subject to recapture will not be changed by virtue of the assumption. After assumption, compliance with loan conditions is required. If a same terms transfer is consummated and the account is delinquent, it may be reamortized in accordance with subpart G of part 1951 of this chapter. Eligibility for interest credit will be considered or re-evaluated at the time of assumption. Situations where these terms are authorized are:

* * * * *

Dated: November 25, 1992.

LaVerne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 93–709 Filed 1–12–93; 8:45 am]

BILLING CODE 3410–07–M

Food Safety and Inspection Service

9 CFR Parts 318 and 381

[Docket No. 86–044F]

RIN 0583–AA75

Use of Potassium Lactate and Sodium Lactate as Flavoring Agents in Various Meat and Poultry Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to permit the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents in various meat and poultry products. The Food and Drug Administration (FDA) has affirmed these substances as generally recognized as safe (GRAS) for use as direct human food ingredients, as flavor enhancers, flavoring agents, adjuvants, humectants, and pH control agents, except in infant formulas and infant food, when used at levels sufficient for purpose in accordance with good manufacturing practices. This final rule is in response to petitions submitted by Oscar Mayer Foods Corporation and Shenandoah Products, Inc.

EFFECTIVE DATE: February 12, 1993.

FOR FURTHER INFORMATION CONTACT: Charles R. Edwards, Director, Product Assessment Division, Regulatory Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington DC 20250, Area Code (202) 205–0080.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule within the scope of Executive Order 12291. It will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12778

This final rule has been reviewed pursuant to Executive Order 12778, Civil Justice Reform. This final rule concerns the use of substances in meat and poultry products. States are precluded from imposing and marking, labeling, packaging, or ingredient requirements on federally inspected meat or poultry products that are in addition to, or different than those imposed under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 678) or Poultry Products Inspection Act (PPIA) (21 U.S.C. 467e). States may, however, exercise concurrent jurisdiction over meat and poultry products that are outside official

establishments for the purpose of preventing the distribution of meat or poultry products that are misbranded or adulterated under the FMIA or PPIA, or, in the case of imported articles which are not at such an establishment, after their entry into the United States. States that conduct meat and poultry inspection programs must impose requirements at least equal to those imposed on federally inspected products and establishments under the FMIA or PPIA. These States may, however, impose more stringent requirements on such State-inspected products and establishments.

This rule is not intended to have retroactive effect. There are no applicable administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this final rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an inspector relating to inspection services provided under the FMIA or PPIA. The administrative procedures specified in 9 CFR part 335 and part 381, subpart W, must be exhausted prior to any judicial challenge to the application of the provisions of this rule with respect to labeling decisions.

Effects on Small Entities

The Administrator, FSIS has determined that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule provides manufacturers the option of using potassium lactate and sodium lactate as flavor enhancers and flavoring agents in various meat and poultry products. Manufacturers, both large and small, opting to use potassium lactate and sodium lactate as flavor enhancers and flavoring agents in various meat and poultry products would be required to revise the ingredients statement on product labels to show the presence of potassium lactate and sodium lactate. However, any costs associated with new label applications would be covered under existing approved paperwork burdens of FSIS's prior label approval system. Thus, the final rule imposes no new paperwork requirements on industry.

Background

The Agency has been petitioned by Oscar Mayer Food Corporation (Oscar Mayer) to amend the Federal meat and poultry products inspection regulations to allow the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents in cooked meat and poultry products. The petitioner wishes to use potassium lactate and sodium lactate to contribute to the salty taste in cooked meat and poultry products. Oscar Mayer contends that potassium lactate and sodium lactate can be used in conjunction with sodium chloride (common table salt) to achieve a salty flavor in these products. In support of this contention, the petitioner has conducted flavor studies in cooked meat and poultry products, comparing the levels for equivalent saltiness of sodium lactate and sodium chloride. Results from these studies have revealed that in roasted turkey breast, 2.1 percent sodium lactate has the equivalent saltiness equal to 0.5 percent sodium chloride; and in cured cooked beef, 2.5 percent sodium lactate equals 0.8 sodium chloride. Oscar Mayer believes that their data "clearly demonstrates the sodium lactate has the technical effect of a flavoring by contributing to the salty taste of products." The petitioner has presented no figures on the levels of use necessary to achieve saltiness equivalent of potassium lactate, but has estimated that they would be the same as for sodium lactate. The Agency agrees with the petitioner's estimate concerning potassium lactate, due to FDA's assessment sodium lactate and potassium lactate and reports on lactic acid and lactates that affirm that sodium and potassium salts of lactic acid will perform the technical effects of flavor enhancer and flavoring agency.

While the Agency was evaluating the petition and background information from Oscar Mayer Foods Corporation, a petition, supported by pertinent technical information, was also submitted by Shenandoah Products, Inc., for the use of sodium lactate up to 2.0 percent in raw poultry as a flavor enhancer. The technical information includes results of taste panel and chemical rancidity evaluations of ground turkey samples.

The data submitted by Shenandoah Products show results from taste panel evaluations of cooked ground turkey patties containing four different levels of sodium lactate. The four different levels used were 0 percent (control samples), 0.5 percent, 1.0 percent, and 2.0 percent. Samples were evaluated on their "meaty" flavor by a trained taste panel at Webb Technical Group, Inc., Raleigh, North Carolina. In each replication of the panel, ground turkey with sodium lactate was preferred over the flavor of control samples. Three of the four replication samples with 2.0 percent sodium lactate were scored higher than other samples.

FSIS believes that meat and poultry products will not become adulterated by the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents in processing at levels that do not exceed 2.0 percent. These substances were affirmed as GRAS by the FDA on April 6, 1987, for use as direct human food ingredients, as flavor enhancers, flavoring agents, adjuvants, humectants, and pH control agents, except in infant formulas and infant foods. Potassium lactate and sodium lactate were added to 21 CFR 184.1639 and 184.1768 (52 FR 10884). That regulation affirmed these substances as GRAS at levels sufficient for purpose when used in accordance with good manufacturing practices.

Proposed Rule

Based upon FDA's prior safety determinations, as evidenced by its GRAS findings, FSIS published a proposed rule on March 1, 1990 (55 FR 7339), to approve the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents in various meat and poultry products at levels not to exceed 2.0 percent in accordance with FDA regulations (21 CFR 184.1639 and 184.1768). These substances would not be permitted, however, in meat or poultry products produced for consumption by infants.

The Administrator has determined that (1) the proposed use of potassium lactate and sodium lactate would be in compliance with applicable FDA requirements, (2) their use would be functional and suitable for the products intended, (3) the substances would be used at the lowest level necessary to accomplish their intended technical effect, and (4) the use of these substances in products at levels not to exceed 2.0 percent would not render the products adulterated, misbranded, or otherwise not in accordance with the requirements of the Federal Meat Inspection Act and the Poultry Products Inspection Act.

Discussion of Comments

The Agency received 18 comments in response to the proposed rule. Eight comments were submitted by meat and poultry processors, 4 by ingredient manufacturers, 3 by trade groups, 2 by academia, and 1 by a research organization. Eleven of the 18 comments were in support of the proposed rule, while the remaining 7 opposed the proposed rule.

1. Meat Poultry Processors

The seven meat and poultry processors that supported the proposed rule in its entirety believe that the flavor enhancing properties of sodium lactate

add significantly to the flavor of meat and poultry products. One of the supporters stated that the proposal cites that sodium lactate and potassium lactate were affirmed as GRAS by FDA for use as direct human food ingredients as flavor enhancers and flavor ingredients. The regulations affirmed these substances as GRAS at levels sufficient for purpose when used in accordance with good manufacturing practices. Therefore, the commenters proposed that the upper usage level of 2.0 percent based on formulation be deleted from the proposal and that use be permitted at levels sufficient for purpose. The one processor that opposed the proposed rule believes that the primary purpose of using lactate salts is to improve food safety by retarding growth of common spoilage bacteria. This processor stated that the secondary effects are as a flavor enhancer or flavoring agent. The processor also stated that the Department should consider a category of "lactate salts."

2. Trade Groups

One trade group supports the use of potassium lactate and sodium lactate, but also believes that the uses should be allowed at levels sufficient for purpose. Another trade group objects to the proposed use of these substances as flavor enhancers and flavoring agents in meat and poultry products and requests that the proposed regulation either be modified to recognize that lactates are being used for their preservative characteristics or be withdrawn.

The other trade association that opposed the proposed rule supports a complete representation of the uses of potassium lactate and sodium lactate in one rulemaking. It stated that the use of these ingredients in meat and poultry products has functional value for their intended technical effect and are self-limiting in terms of the amount to be used and should be permitted by regulation.

3. Academia

Two universities supported the proposed rule. One university believes that lactates provide a substantial benefit in relation to product flavor when incorporated into processed meat products. It contends that indicating lactates by their common and usual name in the ingredients statement would provide sufficient information for the consumer to satisfy the requirements of ingredient identification.

The other university gave a summary of its research that documents the flavor enhancing characteristics of sodium lactate. The data strongly suggest that the addition of sodium lactate to cooked beef products enhances the flavor of these products. Trained sensory evaluation panels reported that cooked beef ("brothy"), serum ("bloody"), and grain ("cowy") flavor notes were enhanced with the addition of sodium lactate. According to consumer sensory panel evaluations, sodium lactate-treated samples were more desirable overall in texture and flavor. Overall flavor and beef flavor were enhanced by the addition of sodium lactate.

Although treated samples were saltier, there was no difference in desirability of the salty taste. Treated roasts were more often described by consumer panelists as being more flavorful with a stronger beefy or meaty flavor, while control samples were more bland with a weak beefy flavor and not enough seasonings or salt. These research data also document the use of sodium lactate in limiting microbial growth in cooked, whole muscle beef top round roast. This university strongly supports either the incorporation of the "antimicrobial" benefits into the current ruling or the drafting of a second proposed rule which documents the use of potassium lactate and sodium lactate as a means of controlling microbial growth. Also, the university supports limiting usage of sodium lactate to a maximum of 5.0 percent in the final product for either flavor enhancement or microbial growth inhibition uses.

4. Ingredient Manufacturers

Of the four food ingredient companies commenting on the proposed rule, only one voiced its support. The major concerns of the companies opposing the proposed rule were: (1) The primary intended effect of sodium lactate is extended shelf life, even possible storage without refrigeration; (2) only one preservative would be available to industry which would add approximately 3 cents per pound cost to the product containing it, thus creating a monopoly and unfair treatment to industry; (3) this would be the first time in modern history that a preservative would be allowed in fresh and non-cured cooked meat products produced under FSIS regulations; (4) the proposed rule does not recognize the most common use of the lactates which is as an antimicrobial agent to reduce undesirable microorganism growth; (5) the proposed rule is unclear as to whether the proposed 2.0 percent maximum usage level refers to sodium lactate and potassium lactate at the 100 percent pure basis, which is not commercially available, or the 60 percent solutions in water which are the normal products of commerce; and (6) they were not aware that potassium lactate has a "salty taste" like that of sodium lactate.

5. Research Organization

A research organization supported a rulemaking that is based on complete representation of sodium lactate and potassium lactate and their functional properties.

Response to Comments

This rulemaking permits the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents in various meat and poultry products. The second rulemaking, under consideration by the Agency, proposes the use of potassium lactate and sodium lactate as secondary barriers to the growth of certain pathogenic microorganisms in refrigerated, ready-to-eat, hermetically packaged, cooked uncured and cured meat and poultry products.

Potassium lactate and sodium lactate may be considered as having "antimicrobial" properties, and the Agency already allows the use of certain substances with antimicrobial properties but classifies them by their primary functions. For example, sodium nitrate and glucono delta-lactone have antimicrobial properties but are curing agents and acidulants, respectively. With regard to the concern that only one preservative would be available to industry, both potassium lactate and sodium lactate are available to the industry, but are not proposed for use as "preservatives," nor do data support that a product containing potassium lactate and sodium lactate could be stored at room temperatures without resulting in a spoiled product. Also, potassium lactate and sodium lactate are not classified as "preservatives" by FDA.

Potassium lactate and sodium lactate usually exist as solutions of 60 percent lactate to 40 percent water. The 2.0 percent given in the proposed rule means 2.0 percent on a pure basis. Potassium lactate and sodium lactate will be listed by their common name in the ingredients statement. This will provide consumers with sufficient information. Additionally, sufficient data exist to support the flavor enhancing effects of lactates.

Final Rule

After careful consideration of the comments and other available information, FSIS is amending the chart of approved substances in 9 CFR 318.7 and 381.147 to include the use of potassium lactate and sodium lactate as flavor enhancers and flavoring agents at

levels not to exceed 2 percent for use in various meat and poultry products.

List of Subjects

9 CFR Part 318

Food additives, Meat inspection.

9 CFR Part 381

Food additives, Poultry inspection.

PART 318—ENTRY INTO OFFICIAL ESTABLISHMENTS; REINSPECTION AND PREPARATION OF PRODUCTS

1. The authority citation for part 318 continues to read as follows:

Authority: 7 U.S.C. 450, 1901–1906; 21 U.S.C. 601–695; 7 CFR 2.17, 2.55.

2. Section 318.7(c)(4) is amended by adding to the chart of substances, under the Class of substance "Flavoring agents; protectors and developers," the following substances at the end thereof:

§ 318.7 Approval of substances for use in the preparation of products.

* * * * *

(c) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amount
*	*	*	*	*
Flavoring agents; protectors and developers.	Potassium lactate	To flavor product	Various meat and meat food products, except infant formula and infant food.[2]	Not to exceed 2 percent of formulation; in accordance with 21 CFR 184.1639.
	Sodium lactate	.....do	.....do	Not to exceed 2 percent of formulation; in accordance with 21 CFR 184.1768.
*	*	*	*	*

[2] Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

3. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 450; 21 U.S.C. 451–470; 7 CFR 2.17, 2.55.

4. Section 381.147(f)(4) is amended by adding to the table of substances, under the Class of substance "Flavoring agents; protectors and developers," the following substances at the end thereof:

§ 381.147 Restrictions on the use of substances in poultry products.

* * * * *

(f) * * *

(4) * * *

Class of substance	Substance	Purpose	Products	Amounts
*	*	*	*	*
Flavoring agents; protectors and developers.	Potassium lactate	To flavor product	Various poultry and poultry food products, except infant formula and infant food.[3]	Not to exceed 2 percent of formulation; in accordance with 21 CFR 184.1639.
	Sodium lactate	.....do.....	.....do.....	Not to exceed 2 percent of formulation; in accordance with 21 CFR 184.1768.
*	*	*	*	*

[3] Information as to the specific products for which use of this substance is approved may be obtained upon inquiry addressed to the Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, South Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

Done at Washington, DC, on December 31, 1992.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–696 Filed 1–12–93; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 7

[Docket No. 93–01]

Messenger Services

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: This action revises the Interpretive Ruling of the Office of the Comptroller of the Currency (the Office or OCC) regarding the use of messenger services by national banks and their customers to facilitate transactions between them. This action is needed to update the ruling to reflect current case law. The action is intended to provide guidance to national banks concerning the applicability to messenger services of the branching restrictions set forth in the McFadden Act.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Jerome Edelstein, Senior Counsel, Corporate Operations and Resolutions Division, (202) 874–5300; Cindy Hausch, Licensing Policy and Systems Analyst, Bank Organization and Structure, (202) 874–5060.

SUPPLEMENTARY INFORMATION:

I. Background

Interpretive Rule 7.7490, 12 CFR 7.7490, has long established the standards under which national banks and their customers may use messenger services to transport items pertaining to deposits, withdrawals and other business transactions between the bank and the homes or offices of specific customers without the need for the national bank to seek branch approval. During the past several years, however, certain issues have been raised with respect to the use of such services and the utility of this ruling has been called into question. See, e.g., *Brown* v. *Clarke*, 878 F.2d 627 (2d Cir. 1989).

Specifically, issues relate to the use by national banks of messenger services for branching and non-branching functions and about the use of messenger services owned by the bank or by third parties.

Applying the relevant statutes, case law, and OCC precedents on a case-by-case basis, the OCC has analyzed proposals to use such facilities to determine whether they are authorized under the incidental powers clause of 12 U.S.C. 24(7) and, when applicable, the McFadden Act, 12 U.S.C. 36, which governs national bank branching. The following revision to Interpretive Rule 7.7490 reflects the OCC's position on these issues.

II. Purpose of this Revision

This revision seeks to clarify the OCC's position in situations in which: (1) A national bank establishes a messenger service or uses a messenger service established by a third party for non-branching-related transactions; (2) a messenger service established by a third party is used for branching-related transactions; and (3) a national bank establishes a messenger service for branching-related transactions.

The rule establishes a safe harbor under which national banks and their customers may use third-party messenger services to engage in transactions pertaining to branching activities without the messenger service being deemed a branch. This safe harbor is not meant to be exclusive. Alternative factors, as determined on a case-by-case basis, may justify a similar conclusion.

III. Analysis

The ruling is based on case law which has placed emphasis on two primary factors in determining whether a particular facility is subject to the McFadden Act: whether the activity involved is a branching function; and whether the facility has been "established" by the national bank.

A. Messenger Services Are Considered To Be Bank Branches if They Engage in "Branching Functions" and Are "Established" by the Bank

1. Branching Functions

A national bank may undertake branching functions only at its main office or at a branch office. It is undisputed that the functions mentioned in 12 U.S.C. 36(f)—receiving deposits, making loans, and paying checks—are branching functions subject to the McFadden Act's limitations. The Supreme Court in *Clarke* v. *Securities Industry Association*, 479 U.S. 388 (1987) (Clarke), however, left open the question of whether functions other than these three functions constitute branching functions—what it referred to as "core banking functions"—subject to the branching limitations set forth in the McFadden Act. *Id.* at 409. But the Court did make it clear that not all of the activities in which a national bank engages are considered "core banking functions"—that is, not all activities are branching functions. *Id.* (discount brokerage service is not a core banking function and, thus, is not subject to the McFadden Act). A national bank may engage in such nonbranching functions without regard to the restrictions imposed by the branching laws.

The Supreme Court also held that where a national bank owns and controls a facility involved in branching functions, that facility will be considered to be a branch despite contractual arrangements regarding the relationship between the bank and the customer that would suggest otherwise. Thus, the Supreme Court held that an armored car, undeniably owned and controlled by a national bank, was a branch of that bank if it engaged in branching functions specified in 12 U.S.C. 36(f). See *First National Bank of Plant City* v. *Dickinson*, 396 U.S. 122 (1969) ("Plant City"). The Court noted that the national bank in that case employed the teller and driver-guard, operated the car under the name of the bank, directed all of its movements and routing, paid for the cost of the car's operations, and assumed complete responsibility for the deposits during transport through an insurance policy bought and paid for by the bank. *Id.* at 127–128. The Court concluded that the facility was a branch of the bank despite a contractual arrangement between each customer and the bank which specified that, in providing the service, the bank was acting as agent for the customer and transmittal of currency and cash items would not be deemed to be a deposit until delivered to a bank teller at the bank's office. *Id.*

2. "Establishment" of a Branch

Assuming a facility engages in transactions pertaining to the branching functions within the meaning of section 36(f), the next issue in determining whether that facility is a "branch" is whether the facility has been "established" by the bank. Two cases are particularly relevant to this issue.[1]

a. *The Smith and Marine Midland Cases.* In *Independent Bankers Association* v. *Smith*, 534 F.2d 921 (D.C. Cir.), *cert. denied*, 429 U.S. 862 (1976) (Smith), the court rejected the Comptroller's argument that a bank-owned CBCT, which the court found to receive deposits, was not a branch because the CBCT was indistinguishable from the mail or a telephone used to facilitate deposit taking. The court stated that facilities such as mailboxes were not bank branches because they were not "established (*i.e.*, owned or rented)" by the bank. The court concluded, however, that because the CBCT was owned by the bank, it was a branch. In accordance with this determination, the OCC incorporated the "owned or rented" standard into its regulation pertaining to the establishment by national banks of CBCTs as branches. 12 CFR 5.31. Subsequently, the Court of Appeals for the Second Circuit applied this test in determining that an automatic teller machine owned by a supermarket did not constitute a branch of a national bank the customers of which used the facility. See *Independent Bankers Association of New York State* v. *Marine Midland Bank*. 757 F.2d 453 (2d Cir. 1985), *cert. denied*, 476 U.S. 1186 (1986) (Marine Midland).

The court in Marine Midland observed that the supermarket, rather than the bank, determined where the facility was to be located, maintained the facility, decided whether to allow customers of different banks to use the facility, and identified the machine as its own. *id.* at 462. In addition, the court concluded that the transaction fees paid by the bank each time a customer used the facility did not constitute "rent" and did not render the facility a bank branch. *Id.* at 463.

The OCC believes that the establishment standard as developed in Smith and Marine Midland is directly applicable to messenger services. If, as in Smith, mailing a deposit with postage paid by the bank does not cause the Post Office to be a branch, the OCC believes that other forms of third party messenger services need not be subject to the McFadden Act's restrictions. Moreover, at least one case predating Smith and Marine Midland applied an approach similar to those cases in holding that a third party messenger service was not a branch. See *Dickinson* v. *Bay National Bank and Trust Co.*, Marianna Civil Action No. 673 (N.D. Fla. 1973).

b. *OCC Precedent.* In addition to the considerations set forth in Smith and Marine Midland, the OCC in its rule and related interpretations regarding whether messenger services are branches, has long considered the following to be relevant in determining whether a messenger service facility is

[1] The Supreme Court in *Plant City* did not have to address this issue. Under the facts, it was clear that the national bank had established the facility.

a branch: the existence of an agency agreement between the messenger service and the customer, the risk undertaken by the messenger service during transit, and the fact that items are not considered to be received by the bank until delivered to the bank's premises and are considered to be paid by the bank when they are given to the messenger. The OCC is retaining these factors as part of the safe harbor test for determining whether such facilities are branches.

IV. Explanation of the Revision

Based on the general principles set forth above, the OCC is revising its current ruling on messenger services, 12 CFR 7.7490, to provide more specific guidance to national banks with respect to the establishment of messenger services and to clarify the circumstances under which branch applications are required for such facilities. The following summarizes the revised ruling:

A. Section 7.7490(a): Definition of Messenger Service

Paragraph (a) defines a "messenger service" as any service used by a national bank and its customers to pick up from and deliver to specific customers at locations, such as their homes or offices, items relating to transactions between the customer and the bank.

B. Section 7.7490(b): Pick up and Delivery of Items Relating to Nonbranching Activities

Paragraph (b) states that, under 12 U.S.C. 24(7), messenger services involving nonbranching functions may be established by national banks or established by third parties and used by national banks and their customers. The paragraph states that because only nonbranching functions are involved, the McFadden Act is inapplicable and a national bank may establish such a service without OCC branching approval. Such functions include, among other things, securities brokerage (see Clarke at 479 U.S. 388), and activities of a loan production office (12 CFR 7.7380). The paragraph also states that, in providing or using messenger services to facilitate nonbranching activities, national banks may set terms, conditions, and limitations that they deem appropriate to assure compliance with safe and sound banking practices.

This paragraph does not apply to branching activities as defined in 12 U.S.C. 36(f), i.e., the receipt of deposits, payment of checks, or lending of money. In addition, as stated, the Supreme Court has left open the question of whether additional activities may be considered to be core banking functions and, thus, branching activities within the meaning of section 36(f). See Clark at 409. In the event that additional activities are determined to be core banking functions, proposed § 7.7490(b) would not apply to the provision of such services. Rather, the provision of such services would be addressed by § 7.7490 (c) or (d).

C. Section 7.7490(c): Pick up and Delivery of Items Pertaining to Branching Functions Where the Messenger Service Facility is Established by a Third Party

This paragraph addresses messenger services used by national banks and their customers to deliver items in connection with activities that are branching functions. The facts and circumstances of such use will determine whether the messenger service will be considered to have been established and operated by the third party and thus not be considered to be a branch.

Paragraph (c)(1) states that transport of items in connection with these branching functions may be accomplished through a messenger service, notwithstanding branching limitations, if a third party establishes and operates the service. The paragraph provides that, in acting pursuant to this ruling, the national bank may establish terms, conditions, and limitations, not inconsistent with this ruling, that it deems appropriate to assure compliance with safe and sound banking practices.

Paragraph (c)(2) provides that whether a messenger service has been established by a third party will be determined based on an evaluation of all of the circumstances. The paragraph, however, sets forth a safe harbor, based on case law and OCC precedent, under which a messenger service would be considered to be established and operated by a third party and thus would not be considered to be a branch of the bank.

If a messenger service complies with all of the requirements set forth in (c)(2), the OCC will not consider the facility to be a branch. As stated, this test is not meant to be exclusive. Undoubtedly, there could be other factors that would cause a facility not to be considered a branch because it was not "established" by the national bank. Likewise, there may be facts and circumstances under which the failure to satisfy certain of the listed factors would not cause the facility to be considered as a branch of the bank.

Paragraph (c)(3) permits a national bank to defray costs incurred by a customer in transporting items by a messenger service without causing the service to be considered as "established" by the bank. For example, the OCC and the courts have long recognized that such costs may be paid by the bank on a transaction-by-transaction basis. See Marine Midland at 463, and § 5.31(f)(4) (pertaining to payment on a transactional fee basis by a national bank for customer's transactions at a CBCT facility owned by a third party). See also OCC Interpretive Letter No. 188 of May 12, 1981, reprinted at Fed. Banking Law Rep. (CCH) para. 85,269 (payment of transactional fee by a national bank for use of third party-owned CBCT by a customer is analogous to the distribution by a bank to its customers of postage-paid envelopes for purposes of deposit-by-mail services). This paragraph also states that the bank may impose terms, conditions, and limitations with respect to the payment of such costs.

D. Section 7.7490(d): Branching Activities Where the Bank has Established the Facility

This paragraph states that, if a national bank-established messenger service is conducting a branching activity, the facility is subject to the relevant provisions of 12 CFR part 5 regarding OCC branch approvals.

Notice and Comment

The OCC has determined that notice and comment and delayed effectiveness are unnecessary under 5 U.S.C. 553 (b)(A) and (d)(2) which exempts interpretive rules from such procedures.

Regulatory Flexibility Act

It is hereby certified that this Interpretive Ruling will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. The purpose of the ruling is to clarify the authority of all national banks, regardless of size, and of their customers to use messenger services to facilitate transactions between them.

Executive Order 12291

The OCC has determined that this document is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required. Overall, the Office expects the changes to benefit consumers and national banks by clarifying the authority of national banks and their customers to use messenger services to facilitate transactions between them.

List of Subjects in 12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

Authority and Issuance

For the reasons set forth in the preamble, part 7 of chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 7—INTERPRETIVE RULINGS

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

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

2. Section 7.7490 is revised to read as follows:

§7.7490 Messenger service.

(a) *Definition.* For purposes of this section, a "messenger service" refers to any service, such as a courier service or armored car service, that is used by a national bank and its customers to pick up from, and deliver to, specific customers at locations such as their homes or offices items relating to transactions between the bank and such customers.

(b) *Pickup and delivery of items relating to nonbranching activities.* Pursuant to 12 U.S.C. 24(7), a national bank may establish and operate a messenger service, or use, with its customers, a third party messenger service, to transport items relevant to the bank's transactions with its customers without regard to the limitations set forth in 12 U.S.C. 36, provided the service does not engage in branching functions within the meaning of 12 U.S.C. 36(f). In establishing or using such a facility, the national bank may establish terms, conditions, and limitations that it deems appropriate to assure compliance with safe and sound banking practices.

(c) *Pickup and delivery of items pertaining to branching functions by a messenger service established by a third party.* (1) Pursuant to 12 U.S.C. 24(7), a national bank and its customers may use a messenger service to pick up from, and deliver to, customers items which relate to branching functions within the meaning of 12 U.S.C. 36(f) without regard to the limitations set forth in 12 U.S.C. 36, provided the messenger service is established and operated by a third party. In using such a facility, a national bank may establish terms, conditions, and limitations, not inconsistent with this ruling, as it deems appropriate to assure compliance with safe and sound banking practices.

(2) Whether a messenger service is established by a third party is based on a case-by-case review of all of the circumstances, provided a messenger service is established by a third party if:

(i) A party other than the national bank owns the service and its facilities (or rents them from another party other than the bank) and employs the persons engaged in the provision of the service; and

(ii) The messenger service:

(A) Makes its services available to the public, including other depository institutions;

(B) Retains ultimate discretion to determine which customers and geographical areas it will serve;

(C) Maintains ultimate responsibility for scheduling, movement, and routing;

(D) Does not operate under the name of the bank, and the bank and the messenger service do not advertise, or otherwise represent, that the bank itself is providing the service, although the bank may advertise that its customers may use one or more third party messenger services to transact business with the bank;

(E) Assumes responsibility for the items during transit and maintains adequate insurance covering holdups, employee fidelity, and other in-transit losses; and

(F) Enters into contracts with customers which provide that the messenger service acts as the agent for the customer when the items are in transit between the bank and the customer and, in the case of items intended for deposit, such items shall not be deemed to have been deposited until delivered to the bank at an established bank office, and, in the case of items representing withdrawals, such items shall be deemed to be paid when the item is given to the messenger service.

(3) A national bank is permitted to defray all or a part of the costs incurred by a customer in transporting items through a messenger service. Payment of such expenses may only cover costs associated with each transaction involving the customer and the messenger service. The national bank may impose such terms, conditions, and limitations as it may deem appropriate with respect to the payment of such costs.

(d) *Pickup and delivery of items pertaining to branching activities where the messenger service is established by the national bank.* A national bank may establish and operate a messenger service to transport items relevant to the bank's transactions with its customers if such transactions involve one or more branching functions within the meaning of 12 U.S.C. 36(f), provided the bank receives approval to establish the proposed branch pursuant to the relevant provisions of 12 CFR part 5.

Dated: August 27, 1992.

Stephen R. Steinbrink,

Acting Comptroller of the Currency.

[FR Doc. 93–697 Filed 1–12–93; 8:45 am]

BILLING CODE 4810–33–M

FEDERAL RESERVE SYSTEM

12 CFR Part 225

[Regulation Y; Docket No. R-0755]

Review Criteria for Bank Holding Company Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is correcting a codification error in a document published in 58 FR 471, January 6, 1993. That document amended Regulation Y to implement certain regulatory improvements contained in sections 202(d) and 210 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

EFFECTIVE DATE: February 4, 1993.

FOR FURTHER INFORMATION CONTACT: Scott G. Alvarez, Associate General Counsel (202-452-3583), or Brian E.J. Lam, Attorney (202-452-2067), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202-452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington DC 20551.

SUPPLEMENTARY INFORMATION: The final rule published in the Federal Register on January 6, 1993, revised § 225.2(k) (defining the term "person") rather than revising § 225.2(l) (defining the term "principal shareholder") of the Board's Regulation Y (12 CFR 225.2(k) and (l)). This final rule restores the pre-existing definition of the term "person" in § 225.2(k), and properly revises § 225.2(l) to define the terms "controlling shareholder" and "principal shareholder" as intended by the final rule published on January 6, 1993.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, and pursuant to the Board's

authority under section 5(b) of the Bank Holding Company Act of 1956, 12 U.S.C. 1844(b), the Board amends part 225 of Chapter II of Title 12 of the Code of Federal Regulations as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

1. The authority citation for part 225 is revised to read as follows:

Authority: 12 U.S.C. 1817(j)(13), 1818(b), 1828(o), 1831i, 1843(c)(8), 1844(b), 1972(l), 3106, 3108, 3907, 3909, 3310, 3331-3351.

2. Section 225.2 is amended by revising paragraphs (k) and (l) to read as follows:

§ 225.2 Definitions.

* * * * *

(k) *Person* includes an individual, bank, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity.

(l)(1) *Controlling shareholder* means a person that owns or controls, directly or indirectly, 25 percent or more of any class of voting securities of a bank or other company.

(2) *Principal shareholder* means a person that owns or controls, directly or indirectly, 10 percent or more of any class of voting securities of a bank or other company, or any person that the Board determines has the power, directly or indirectly, to exercise a controlling influence over the management or policies of a bank or other company.

* * * * *

By order of the Board of Governors of the Federal Reserve System, January 7, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93-771 Filed 1-12-93; 8:45 am]

BILLING CODE 6210-01-F

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Environmental Services

AGENCY: Small Business Administration.

ACTION: Interim final rule.

SUMMARY: The Small Business Administration (SBA) is establishing on an interim basis a size standard of $18.0 million in average annual receipts for Environmental Services, an activity which involves work identified with a number of different functions including: preliminary assessment, site inspection, testing, remedial investigation, feasibility studies, remedial design, containment, remedial action and security and site closeouts. It is SBA's determination that environmental services is an emerging industry in which firms perform tasks that depart from traditional activities in any one industry as presently defined under the Standard Industrial Classification (SIC) System; this could result in a different and distinct industry structure in which firms tend to be of a different size than firms specializing in any other industry. Until SBA is able to review the characteristics of this new "emerging" industry it is choosing to use the size standard of $18.0 million.

The reason underlying the creation of a new environmental services size standard is to clarify the present uncertainty among contracting officers in determining the SIC classification of contracts involving environmental services.

In addition, SBA is seeking information and data which would either support 18.0 million size standard for this activity or suggest the need for a different size standard. For commentors offering a different size standard, SBA is seeking data which would provide some perspective of the magnitude of differences in industry structure (e.g., average firm size in receipts and assets, size distribution of firms, the concentration of economic activity among a few firms, etc.) between firms specializing in environmental services and firms specializing in activities which are related, such as sanitary services and refuse collection and disposal, as well as any other information which supports an alternative standard. While SBA has sufficient information to justify this interim rule, this request for public comment is meant to provide SBA with complete statistical data for this activity/industry. SBA believes it is necessary to seek public input as a complement to its own research on this activity/industry since it is not yet identified as a separate industry under the SIC system and therefore data are not gathered for this activity/industry by the Federal agencies.

DATES: This interim rule is effective January 13, 1993; comments must be submitted on or before February 12, 1993.

ADDRESSES: *Send comments to:* Gary M. Jackson, Director, Size Standards Staff, U.S. Small Business Administration, 409 3rd Street, SW, Suite 8150, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Robert N. Ray, Economist, Size Standards Staff, Tel: (202) 205–6618.

SUPPLEMENTARY INFORMATION: The Small Business Administration (SBA) is establishing, on an interim basis, a size standard of $18.0 million for the activity/industry of environmental services. At present, the most closely matched classification of procurements for this activity is Sanitary Services, Not Elsewhere Classified (SIC code 4959), an industry which involves establishments performing sanitary services not identified with other sanitary service industries. A second industry which has limited applicability to some of the functions is Refuse Systems (SIC code 4953), an industry which involves establishments primarily engaged in the collection and disposal of refuse by processing or destruction in the operation of incinerators, waste treatment plants, landfills, or other sites for the disposal of such materials. Both SIC codes 4959 and 4953 have varied activities. Classifying environmental services within these SIC codes results in some activities which are usually performed by fairly small firms (e.g., collection and disposal of garbage, ashes, rubbish and sweeping services) having the same size standard as other activities in the same industry that are usually performed by much larger firms (e.g., collection and disposal of hazardous waste, radioactive waste, oil spill cleanup and operation of landfill or waste disposal sites, primarily for the Federal government). Such anomalies may occasionally occur under SBA's system in which size standards are usually associated with four-digit Standard Industrial Classification (SIC) code industries. When these anomalies occur, SBA will consider defining a separate new industry classification. SBA also will consider a separate industry based upon changes within the activities of the present SIC code suggesting that a new industry is taking shape which would have a different structure than the industries with which it is associated under its current designations. This consideration seems to apply to environmental services, an activity in which Federal procurements have expanded significantly in recent years.

The size standard for environmental services is established on an interim basis because no SIC code currently exists which encompasses the types of activities associated with environmental services. Over the past decade, restoration of contaminated sites has grown significantly into a major activity, involving new technologies and a

variety of firms from various industries. A number of different SIC codes have been designated for environmental services, as discussed later in the rule, but none fully describe the type of activity being performed by firms. SBA believes this action is in the public interest in response to the confusion experienced by contracting activities over the industry classification of environmental services and the resulting size standard. Furthermore, Federal contracting is beginning to expand with multi-year contracts ranging in sizes from $25.0 million to $100 million. Accordingly, an appropriate industry designation and size standard are needed to eliminate the uncertainty over which firms are considered small business in the activity of environmental services. Under SBA's size standards regulations, § 121.301(c), if a size standard for a new industry has not been established, SBA may issue an interim rule establishing a size standard. It is not expected that the Standard Industrial Classification System will establish a separate industry code for environmental services for many years. However, for SBA's small business set-aside and 8(a) programs, an industry designation is greatly needed to ensure an appropriate size standard exists for small businesses engaged in environmental services.

In evaluating an emerging industry for size standard purposes, the SBA must consider whether the activity under consideration for a distinct size standard is a component of a large four-digit SIC code industry or includes activities which are incorporated in several SIC industries. The latter would seem to be the case for environmental services. Other industries in addition to SIC Code 4959 and 4953 in which environmental services sometimes have been classified include: SIC code 8734 (Pollution Testing); SIC code 8711, (Engineering Services); SIC code 1629 (Heavy Construction, Not Elsewhere Classified); SIC code 1795, (Wrecking and Demolition Work); SIC code 1799 (Special Trade Contractors, Not Elsewhere Classified); and SIC code 8731 (Commercial, Physical and Biological Research). Significantly, these industries have widely varying size standards. Thus, SBA is soliciting public comments on its policy of combining activities which involve three or more activities in different industries into the single industry category of environmental services with a size standard of $18.0 million. SBA, however, also must evaluate the appropriate size standard for this industry/activity. Its standard approach for evaluating a size standard is discussed below.

In considering the appropriateness of a size standard, SBA evaluates an industry using five primary factors. The primary factors include: industry competition, average firm size, start-up costs, distribution of firms by size and the impact on SBA's programs. Preliminary information based on both established data sources and anecdotal information, using the above factors as guidelines, point to the need for a relatively high size standard for the activity of environmental services. However, SBA's information may not be sufficiently broadbased for it to support a permanent size standard. Therefore, an interim size standard is being established along with a request for public comment on this action. Information relating to any of these factors would greatly assist SBA in its evaluation of the acceptability of the interim size standard of $18.0 million in average annual receipts for environmental service. These factors are reviewed below based upon SBA's research. This information is provided to demonstrate the basis for SBA's action and to assist the public in providing additional relevant information to the SBA.

Factors Influencing the Size Standard Decision Process

As an indicator of industry competition, SBA first looks at competition within the industry as measured by the share of industry sales controlled by producers above a relatively high size. In this case, SBA would be most interested in information which would indicate industry activity for firms active in environmental services that individually exceed $25.0 million in annual sales. To the extent that economic activity is concentrated in an industry or a component of an industry by a few producers that are relatively large, SBA tends to set higher size standards to assist firms in a broader size range to compete with firms that are dominant in the industry. If this pattern occurs for environmental service activities to a greater degree than alternate industry activities (e.g., construction, sanitary services, refuse collection, testing, research and development and engineering), there would be a justification for a higher size standard for this activity.

Average firm size is the second factor considered by SBA. For equity reasons, SBA tends to set higher size standards in industries with high average firm size and low size standards in industries with low average firm size. Any information which commentors have relating to differences in the average size of firms active in environmental service activities as contrasted with average firm size for the related industries would assist SBA to evaluate the need for a separate, distinct size standard for environmental service activities.

Indexes of start-up costs are the third factor to evaluate size standards. High start-up costs affect a firm's initial size because potential entrants into an industry must have sufficient capital to start a viable business, and these capital requirements vary significantly by industry. To the extent that firms active in environmental services have greater capital expenses than firms active in related industries, the SBA would be justified in considering a higher size standard for environmental services. High average start-up costs are viewed as a justification for a relatively high size standard, while low average start-up costs are usually associated with smaller size standards.

The fourth factor—firm size distribution—relates the proportion of industry sales, employment and other economic activity accounted for by firms of different sizes within an industry to its size standard. If the preponderance of an industry's output is by smaller firms, this would tend to support a low size standard. The opposite would be the case for an industry in which firm size distribution indicates that output is concentrated among intermediate sized and/or large firms.

The fifth and final factor to be considered is the impact of the proposed size standard revision on SBA's programs. These usually involve a calculation of small business shares of Federal procurement, and often the size of Federal contracts in an industry. In general, the lower the share of Federal procurement activity by small firms in an industry, and the greater the average size of Federal contracts, the greater would be the justification for a higher size standard. Patterns of SBA lending guarantees by industry have also been used by SBA in the past to evaluate the need for a size standard revision to meet SBA's program needs. Any information which commentors may have relating to the impact of the present size standards or the interim size standard on any of SBA's major programs could affect the decision for environmental services.

Selection of $18.0 Million Size Standard

As already discussed, the primary concern of this interim rule is to standardize the classification of contracts for environmental services and

establish a size standard of $18.0 million. A preliminary evaluation of the various factors associated with firms which specialize in this activity suggests the need for a size standard which is at the highest level among SBA's dollar based size standards.

The primary source of data underlying this appraisal is Wards Business Directory, a publication which describes a firm's activities within its industry classification. It is possible from this business source to determine whether a firm is active in environmental services required for Federal services. The largest single grouping of firms which is capable of performing environmental services, are listed in SIC code 4953. Data for this industry are used in table 1. This table first portrays all firms within this SIC, many of which specialize in garbage and trash collection activities. The second part of this table separates out by size those firms within the SIC code which are involved in environmental services from the larger industry.

TABLE 1

[Size Distribution of Firms in Refuse Systems Total Industry (SIC code 4953)]

Firm	Size of less than 100 empl.	100–249 empl.	250–999 empl.	1,000–4,999 empl.	5,000+ empl.	Total
No. of Firms	44	29	19	11	5	10
No. of Empl.	2,200	3,800	8,400	21,100	138,500	174,00
Firms Specializing in Environmental Services in SIC code 4953						
No. of Firms	28	14	10	10	4	6
No. of Empl.	1,400	1,900	4,200	18,600	133,100	159,20

Source: Data derived from Wards Business Directory of U.S. Private and Public Companies—1992.

This table clearly indicates that very large firms in this industry tend to be involved in environmental services. The larger the size class of firm, the more likely that it is dominated by firms that have the ability to do environmental services. This table, therefore, suggests that the size standard for firms involved in environmental services should be significantly higher than the size standard for all of refuse systems ($6.0 million), and tends to support the decision to set the size standard for this activity at a level which is three times that of other refuse collection and disposal activities. However, this data source is somewhat limited (Wards generally gathers comprehensive information on larger firms while providing only limited information on smaller firms in an industry's distribution of firms). As such, SBA is electing to establish an interim final rule for this activity, a rule which specifically invites a response from the public as to the advisability of this decision.

The classification of this activity/industry under the industry of Facilities Support Management Services (SIC code 8744) rather than either of the two refuse collection and disposal industries (SIC code 4953—Refuse Systems; and SIC code 4959)—Sanitary Services, N.E.C.) reflects SBA's awareness that this activity/industry is comprised of activities in three or more different industries similar to Base Maintenance which is also a subcategory of Facilities Support Management Services. SBA believes that Base Maintenance is closely related in concept to environmental services in other ways as well since the great majority of environmental services will occur on Federal lands and installations similar to base maintenance, and virtually all economic activity in both industries is related to Federal procurement. Thus, both the number of activities and the dependence of both activities to Federal purchases suggest a similarity between base maintenance and environmental services.

As already discussed, SBA specifically invites comment on the appropriateness of the size standard of $18.0 million (either higher or lower) for environmental services. Comments suggesting other standards should address the questions of:

(1) The interaction of this size standard with SBA's programs;

(2) The relative levels of participation at different size standards;

(3) The effect of this proposed size standard or other alternative size standard on the businesses within the industry and;

(4) The prospect of significant new entries into these businesses in response to a change in the size standard.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612, 12778 and the Paperwork Reduction Act

Based on all available information, SBA believes that this interim final rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An increase from $6.0 million to $18.0 million for those firms in the refuse systems industry that are active in environmental services is estimated (from admittedly limited data) to affect nine firms with receipt levels in the $6.0 million to $18.0 million range. These nine firms are collectively estimated to generate $80 million or an amount equivalent to $8.9 million per firm. Under a size standard of $18.0 million, these nine firms could, on average, each increase revenues by $4.6 million by being awarded Federal contracts while still retaining eligibility for SBA's procurement and financial preference programs. This totals, among all nine firms, $41 million, well below the $100 million threshold required for a major rule.

The SBA also estimates that none of these newly eligible firms would be seeking assistance under SBA's business loan program. SBA's guaranteed loans are limited to $750,000, a figure much less than the level of assistance which is likely to be sought by firms involved in the heavily capital intense activity of environmental services.

Based on these estimates, SBA certifies that this rule will not be a major rule within the meaning of Executive Order 12291, because it is not expected to have an annual economic impact of $100 million or more as previously discussed. This regulation will not likely result in a major increase in costs or prices or have a significant effect on the United States economy.

SBA certifies that this rule will not impose any requirement subject to the Paperwork Reduction Act of 1980, 44 U.S.C., chapter 35. SBA certifies that this rule will not have federalism implications warranting the preparation

of a Federalism Assessment in accordance with Executive Order 12612.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that order.

List of Subjects in 13 CFR Part 121

Government procurement, Government property, Grant programs—business, Loan programs—business, Small business.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—[AMENDED]

1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), and 632(b)(6), 637(a) and 644(c).

§ 121.601 [Amended]

2. In § 121.601, in the table, Major Group 87 is amended by revising SIC code 8744 to read as follows:

§ 121.601 Standard Industrial Classification codes and size standards

* * * * *

SIC (*=New SIC code in 1987, not used in 1972)	Description (N.E.C.=Not elsewhere classified)	Size standards in number of employees or millions of dollars
. . . . .		
8744*	Facilities Support Management Services [19]	$3.5
	Base Maintenance [20]	13.5
	Environmental Services [21]	18.0
. . . . .		

3. In § 121.601, the footnotes section following the Standard Industrial Classification Table, footnote 21 is added as follows:

[21] *SIC code 8744:* If the primary purpose of the federal procurement is for Environmental Services which consist of such activities as remedial activities to restore a contaminated environment, preliminary environmental assessment studies, remedial investigation and feasibility studies, remedial design, site inspection, remedial action and/or security and site closeouts (generally accounting for 50 percent or more of the procurement activity) the appropriate classification of the procurement would be under SIC code 8744, Environmental Services, with a size standard of $18.0 million in annual receipts.

Dated: October 21, 1992.

Patricia Saiki,

Administrator, U.S. Small Business Administration

[FR Doc. 93–675 Filed 1–12–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

[Docket No. 921188–2288]

RIN 0607–AA17

Fee Structure for Age Search and Citizenship Information

AGENCY: Bureau of the Census.

ACTION: Final rule.

SUMMARY: The Bureau of the Census is hereby amending title 15, Code of Federal Regulations, chapter I, part 50, § 50.5, fee structure for age search and citizenship information, to increase the fee for an age search from $25.00 to $40.00, to increase the additional fee for a full schedule transcript from $6.00 to $10.00, and to reduce the number of censuses searched per fee from two to one. This change is being made to recover the actual cost to process a request. We conducted an in-depth analysis of the costs associated with processing requests for searches of census records and have determined that the current fee structure does not allow us to recover our costs. Title 13, United States Code, requires recovery of the costs. No transcript of any record will be furnished that would violate statutes requiring that information furnished to the Bureau of the Census be held confidential and not used to the detriment of the person to whom it relates.

EFFECTIVE DATE: January 31, 1993.

FOR FURTHER INFORMATION CONTACT: Jane Woods, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132, (812) 288–3212.

SUPPLEMENTARY INFORMATION: This is not a major rule within the meaning of section 1 of Executive Order 12291. It will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rulemaking provisions of the Administrative Procedure Act (APA), 5 U.S.C. section 553 are inapplicable because this rule falls within the proprietary exception of subparagraph (a)(2) of section 553. The purpose of the rule is to make a technical amendment adjusting the agency's fee structure to cover the actual cost for searching the records and furnishing information therefrom. The actual or estimated cost recovery is required by 13 U.S.C. 8(a). This cost increase is minimal, reflecting the actual costs for searching and furnishing the information, and funds for this purpose are not available from any other source. Requests for searches should be directed to the Bureau of the Census, P.O. Box 1545, Jeffersonville, IN 47131–0001.

Since notice and opportunity to comment are not required by the APA or any other law, this rule is not a "rule" within the meaning of the Regulatory Flexibility Act and neither an initial nor final regulatory flexibility analysis will be prepared.

This rule does not impose an information collection requirement for purposes of the Paperwork Reduction Act.

The legal authority is title 13, United States Code.

List of Subjects in 15 CFR Part 50

Census data.

For the reasons set forth herein, part 50 of chapter I of Title 15 of the Code of Federal Regulations is amended to read as follows:

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

1. The authority citation for 15 CFR part 50 continues to read as follows:

Authority: Sec. 3, 49 Stat. 293, as amended; 15 U.S.C. 192a.

Interprets or applies Sec. 1, 40 Stat. 1256, as amended, Sec. 1, 49 Stat. 292, Sec. 8, 60 Stat. 1013, as amended, 15 U.S.C. 192, 189a, 13 U.S.C. 8.

2. Section 50.5 is revised to read as follows:

§ 50.5 Fee structure for age search and citizenship information.

Type of service	Fee
Searches of one census for one person and one transcript	$40.00
Each additional copy of census transcript	2.00
Each full schedule requested	10.00

Note.—The $10.00 for each full schedule requested is in addition to the fee increase to $40.00

Dated: January 6, 1993.

Barbara Everitt Bryant,

Director, Bureau of the Census.

[FR Doc. 93–640 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–07–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standards for Flammability of Children's Sleepwear: Sizes 0 Through 6X and 7 Through 14; Stay of Enforcement

AGENCY: Consumer Product Safety Commission.

ACTION: Stay of enforcement.

SUMMARY: This notice announces the staff's decision to stay enforcement of sleepwear requirements against garments currently being used as sleepwear that are labeled and marketed as underwear if these garments are skin-tight or nearly skin-tight and garments that are essentially identical in design, material, and fit to such "underwear" garments.

DATES: The stay becomes effective on January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Patricia A. Fairall, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0400.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Commission is issuing an advance notice of proposed rulemaking ("ANPR") concerning the possible amendment of the Commission's flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14. The current flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR part 1615 and the standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR part 1616.

While the Commission considers this possible amendment, the staff will stay enforcement of the sleepwear requirements against certain garments described below.

As stated in the ANPR which is published elsewhere in this issue of the **Federal Register**, the staff has noted that many garments currently in the marketplace and labeled as "playwear" or "underwear" are suitable for use as sleepwear and are being used as sleepwear in a substantial number of cases. Pending Commission consideration of amendments to the sleepwear standards, the Compliance staff is staying enforcement against some of these garments. The staff does not intend to enforce the sleepwear requirements against garments currently being used as sleepwear that are labeled and marketed as underwear if those garments are relatively free of ornamentation and are skin-tight or nearly skin-tight. Such garments may be either one or two piece garments and typically are manufactured of a fabric such as rib knit, interlock knit, or waffle knit. The stay will also cover garments that are essentially identical in design, material, and fit to such "underwear" garments. Examples of the type of garments covered by the stay are illustrated on pages 4 and 6 of the Supplemental CPSC Staff Guide to the Enforcement Policy Statements of the Flammability Standard for Children's Sleepwear (1989).

Although the staff will stay enforcement against these garments under its sleepwear standards, these garments must comply with the Standard for the Flammability of Clothing Textiles, 16 CFR part 1610.

Dated: January 4, 1993.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 93–777 Filed 1–12–93; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 314 and 601

[Docket No. 91N–0278]

RIN 0905–AD66

New Drug, Antibiotic, and Biological Drug Product Regulations; Accelerated Approval; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that issued final regulations under which the agency will accelerate approval of certain new drugs and biological products for serious or life-threatening illnesses, with provisions for any necessary continued study of the drugs' clinical benefits after approval or with restrictions on use, if necessary. The document was published in the **Federal Register** of December 11, 1992 (57 FR 58942) with an inadvertent error. This document corrects that error.

EFFECTIVE DATE: January 11, 1993.

FOR FURTHER INFORMATION CONTACT: Robin F. Thomas, Office of Policy (HF-27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 92–30129, appearing on page 58942, in the **Federal Register** of Friday, December 11, 1992, the following correction is made: On page 58945, in the second column, the following text is added to the end of the last paragraph to read as follows: "As discussed later in this document, the decision whether to seek review under accelerated approval or traditional procedures lies with the drug's sponsor. Of course, should an applicant seek approval under the accelerated approval requirements, and FDA finds neither postmarketing studies nor restricted use is required as a basis for approval, FDA will approve the drug under its existing standard procedures."

Dated: December 31, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–692 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8468]

RIN 1545–AQ67

TeleFile Voice Signature test

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations providing that an individual Federal income tax return completed as part of the TeleFile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. The temporary regulations affect those taxpayers who are eligible to, and elect to, file their individual income tax returns for the 1992 calendar year by telephone under the test. The temporary regulations are needed to implement the test. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations for the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the Federal Register.

EFFECTIVE DATE: These regulations are effective January 14, 1993.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622–4960 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information requirement contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1545–1348. The estimated burden per respondent varies from 5 minutes to 9 minutes, depending upon individual circumstances, with an average of 7 minutes.

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

For further information concerning this collection of information, and where to submit comments on this collection of information, the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Background

The Internal Revenue Service is actively engaged in efforts to broaden the base of the existing Electronic Filing program and to reduce the filing burden of taxpayers. Among these efforts is the TeleFile Voice Signature test. The purpose of the test is to explore the technical feasibility, public acceptance, vulnerability, and other benefits and costs of giving certain taxpayers the option of filing their individual income tax returns by telephone.

The Internal Revenue Service will notify certain individuals who live in the Cincinnati District Office geographic area that they may be eligible to participate in the TeleFile Voice Signature test. Taxpayers eligible to participate in this test (which is limited to one filing season) are individuals who (1) are eligible to file Form 1040EZ, Income Tax Return for Single Filers With No Dependents, (2) reside within the geographic boundaries of the Cincinnati District Office, and (3) will file their 1992 income tax returns from the same address from which they filed their 1991 income tax returns.

Under sections 6012, 6061, and 6065 of the Internal Revenue Code, each individual with gross income in excess of a specified amount must file an annual income tax return that (i) is signed in accordance with prescribed forms and instructions and, (ii) except as otherwise provided by the Service, contains (or is verified by) a written declaration that the return is made under penalties of perjury.

This document amends the Income Tax Regulations (26 CFR part 1) by adding temporary regulations §§ 1.6012–7T, 1.6061–2T and 1.6065–2T, which provide rules to facilitate the implementation of the TeleFile Voice Signature test. Generally, the temporary regulations provide that a taxpayer's individual income tax return will be treated as having been properly filed if the taxpayer is eligible to participate in the TeleFile Voice Signature test and, pursuant to the instructions from the TeleFile system interactive voice computer, provides the requested information and the voice signature during the telephonic filing session.

Explanation of Provisions

A participating taxpayer will be treated as having filed an individual income tax return at the time the TeleFile Voice Signature system computer states to the taxpayer that the filing is completed. The taxpayer's voice signature will be treated as a signing and verification of the individual Federal income tax return by the taxpayer. By providing a voice signature during the telephonic filing session, the taxpayer will be treated as having made the income tax return under penalties of perjury.

Special Analyses

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

Need for Temporary Regulations

There is need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with prior notice as required by section 553(b) of title 5 of the United States Code.

Drafting Information

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

List of Subjects

26 CFR 1.6001–1 Through 1.6109–2

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

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 in part by adding the following citations to read as follows:

Authority: 26 U.S.C 7805 * * * Section 1.6012–7T also issued under 26 U.S.C. 6012. * * * Section 1.6061–2T also issued under 26 U.S.C. 6061. * * * Section 1.6065–2T also issued under 26 U.S.C. 6065. * * *

Par. 2. Sections 1.6012–7T, 1.6061–2T and 1.6065–2T are added to read as follows:

§ 1.6012–7T Telephone return filing using voice signature (temporary).

(a) *In general.* For all purposes of the Internal Revenue Code, a return completed by an eligible taxpayer under the TeleFile Voice Signature test in accordance with the instructions provided over the telephone is an individual income tax return filed at the time the TeleFile system interactive voice computer states to the taxpayer that the filing is completed. For provisions relating to the signing and verification of the TeleFile Voice Signature test returns made under this section, see §§ 1.6061–2T and 1.6065–2T, respectively.

(b) *Manner of filing return by telephone.* An eligible taxpayer who chooses to participate in the TeleFile Voice Signature test must dial from a touch-tone telephone the telephone number provided by the Internal Revenue Service. When an eligible taxpayer dials this telephone number, the TeleFile system interactive voice computer will give the taxpayer filing instructions. The taxpayer must provide all the information and a voice signature at the time and in the manner required by those instructions.

(c) *Eligible taxpayer defined.* An eligible taxpayer is an individual who lives in the Cincinnati District Office geographic area, who is eligible to file Form 1040EZ, and whose current name and address appears on the mailing label attached to the taxpayer's tax package for 1992.

(d) *Address to which refunds are sent.* If a taxpayer who files a TeleFile return is entitled to a refund, the taxpayer's refund will be sent to the address on the mailing label attached to the taxpayer's tax package for 1992.

(e) *Effective dates.* This section is effective for returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993. No returns can be filed through the TeleFile Voice Signature test after April 15, 1993.

§ 1.6061–2T Signing of returns by voice signature (temporary).

(a) *In general.* An eligible taxpayer who makes an income tax return under § 1.6012–7T in the TeleFile Voice Signature test is treated, for all purposes of the Internal Revenue Code, as having signed that return by providing the voice signature at the time and in the manner required by the instructions that are provided over the telephone by the TeleFile system interactive voice computer. For provisions relating to the verification of the TeleFile returns made under § 1.6012–7T, see § 1.6065–2T.

(b) *Effective dates.* This section is effective for returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993.

§ 1.6065–2T Verification of returns by voice signature (temporary).

(a) *In general.* An eligible taxpayer who makes an income tax return under § 1.6012–7T in the TeleFile Voice Signature test, by providing the voice signature at the time and in the manner required by the instructions that are provided over the telephone by the TeleFile system interactive voice computer, is treated for all purposes of the Internal Revenue Code as having affirmed that the return is made under penalties of perjury and as having verified the return.

(b) *Effective dates.* This section is effective for returns filed by eligible taxpayers in the TeleFile Voice Signature test after January 13, 1993, and before April 16, 1993.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 602.101(c) is amended by adding the following entries in the table:

§ 602.101 OMB Control Numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
. . . . .	
1.6012–7T	1545–1348.
1.6061–2T	1545–1348.
. . . . .	

Shirley D. Peterson,

Commissioner of Internal Revenue.

Approved: December 16, 1992.

Alan J. Wilensky,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 93–658 Filed 1–12–93; 8:45 am]

BILLING CODE 4830–01–M

Office of Foreign Assets Control

31 CFR Part 580

Haitian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: This rule amends the Haitian Transactions Regulations (the "Regulations"), to give general authorization for the commercial exportation from the United States to Haiti of medicine and medical supplies intended strictly for medical purposes. This rule also announces the availability of specific licenses for the exportation to Haiti of personal hygiene items, of ingredients and materials for the manufacture of medicines and of paper and school supplies. Specific licenses are also available for generators and generator parts, if they are intended for use in humanitarian projects.

EFFECTIVE DATE: January 8, 1993.

FOR FURTHER INFORMATION CONTACT: John T. Roth, Chief of Policy Planning and Program Management (tel.: 202/622–1604), Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480), or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: On March 31, 1992, the Department of the Treasury promulgated the Regulations (31 CFR part 580) in consultation with the Department of State to implement the President's Executive Orders of October 4, 1991, declaring a national emergency with respect to Haiti and ordering specified measures against Haiti, and of October 28, 1991, ordering a trade embargo against Haiti.

Section 580.510 is amended to give general authorization for the exportation from the United States to Haiti of medicines and medical supplies intended strictly for medical purposes, rather than requiring the specific licensing of such transactions as is presently required. No payments to the *de facto* regime in Haiti or to anyone acting on behalf of the regime are permitted in connection with such transactions. Section § 580.510 is also

amended to indicate that specific licenses are available on a case-by-case basis for the exportation of personal hygiene items and of ingredients and materials used in the manufacture of medicines.

New § 580.517 provides that specific licenses may be issued on a case-by-case basis authorizing the exportation of paper, school supplies, generators and generator parts. Generators and generator parts must be intended for use in humanitarian projects, with the nature of the humanitarian project fully described in the license application.

Because the Regulations involve a foreign affairs function, Executive Order 12291 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

List of Subjects in 31 CFR Part 580

Administrative practice and procedure, Banking and finance, Blocking of assets, Exports, Haiti, Imports, Penalties, Reporting and recordkeeping requirements, Shipping, Transfer of assets, Vessels.

For the reasons set forth in the preamble, 31 CFR part 580 is amended as follows:

PART 580—HAITIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 580 continues to read as follows:

Authority: 50 U.S.C. 1701, *et seq.*; E.O. 12775, 3 CFR 1991 Comp., p. 349 (Oct. 7, 1991); E.O. 12779, 3 CFR 1991 Comp., p. 367 (Oct. 30, 1991).

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

2. Section 580.510 is revised to read as follows:

§ 580.510 Exports of medicines and medical supplies.

(a) Exportation from the United States to Haiti of medicines and medical supplies is authorized. No payment to the *de facto* regime in Haiti, or to anyone acting for or on behalf of the *de facto* regime, is authorized in connection with such shipment.

(b) "Medicines" shall mean finished pharmaceutical compounds, mixtures or preparations ready for ingestion, injection or topical application. It shall not include:

(1) Ingredients or materials used in the manufacture of such items; or

(2) Personal hygiene items.

(c) Specific licenses for commercial exportation to Haiti of:

(1) Ingredients or materials used in the manufacture of medicines; and

(2) Personal hygiene items may be issued on a case-by-case basis.

3. Section 580.517 is added to read as follows:

§ 580.517 Exportation of certain products for use in humanitarian projects.

Specific licenses may be issued on a case-by-case basis authorizing the exportation from the United States to Haiti of paper and school supplies. Specific licenses may be issued on a case-by-case basis authorizing the exportation of generators and generator parts for use in humanitarian projects.

Dated: December 31, 1992.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: January 4, 1993.

Nancy L. Worthington,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–780 Filed 1–8–93; 3:54 pm]

BILLING CODE 4810–25–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6953

[ID–943–02–4210–06; IDI–29616, IDI–29575]

Jurisdiction Transfer, Arkansas-Idaho Land Exchange Act of 1992; ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order transfers jurisdiction of 9,114.44 acres of public lands from the Bureau of Land Management to the Forest Service and 7,978.91 acres of National Forest System lands from the Forest Service to the Bureau of Land Management. Subsequent to the jurisdictional transfers, the 7,978.91 acres transferred to Bureau of Land Management will, in turn, be conveyed to the Potlatch Corporation. These actions are being taken pursuant to the Arkansas-Idaho Land Exchange Act of 1992 (Pub L. 102–584).

EFFECTIVE DATE: December 2, 1992.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208–384–3163.

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), and pursuant to the Arkansas-Idaho Land Exchange Act of 1992, Public Law 102–584, it is hereby ordered as follows:

1. Jurisdiction of the following described public lands administered by the Bureau of Land Management is hereby transferred to the Forest Service for inclusion in the National Forest System:

Boise Meridian

T. 42 N., R. 1 E.,
  Sec. 6, lots 4 and 6.
T. 43 N., R. 2 E.,
  Sec. 4, NW¼SE¼.
T. 44 N., R. 2 E.,
  Sec. 20, SE¼NE¼;
  Sec. 24, SE¼NE¼ and SE¼;
  Sec. 25, N½NE¼ and SW¼NE¼;
  Sec. 32, W½NW¼.
T. 46 N., R. 2 E.,
  Sec. 1, N½SW¼ and S½SE¼;
  Sec. 2, lots 3 and 4, SW¼NE¼, and NE¼SE¼;
  Sec. 12, E½NE¼;
  Sec. 13, SE¼NE¼.
T. 47 N., R. 2 E.,
  Sec. 25, W½SW¼, SE¼SW¼, and SW¼SE¼;
  Sec. 26, SE¼SE¼;
  Sec. 27, W½NE¼, NW¼, NE¼SW¼, and W½SE¼;
  Sec. 34, N½NE¼ and SE¼NE¼;
  Sec. 35, N½NE¼, NW¼, and NW¼SW¼.
T. 43 N., R. 3 E.,
  Sec. 11, SE¼SW¼ and S½SE¼;
  Sec. 12, SW¼SW¼;
  Sec. 13, W½NW¼;
  Sec. 14, NE¼, NE¼NW¼, N½SE¼, SW¼SE¼, and NW¼SE¼SE¼;
  Sec. 15, W½NW¼, SE¼NW¼, N½SW¼, and SE¼SW¼;
  Sec. 19, E½SE¼;
  Sec. 20, all;
  Sec. 21, W½NE¼, W½, W½SE¼, and SE¼SE¼;
  Sec. 22, W½NE¼, SE¼NE¼, NE¼NW¼, NE¼SW¼, S½SW¼, and SE¼;
  Sec. 23, W½NW¼NE¼ and W½NW¼SW¼;
  Sec. 27, W½NE¼ and W½;
  Sec. 28, E½, NE¼NW¼, and S½SW¼;
  Sec. 29, NW¼NE¼, S½SW¼, and S½SE¼;
  Sec. 30, S½SE¼;
  Sec. 31, E½ and SE¼SW¼;
  Sec. 32, W½NE¼, W½, and S½SE¼;
  Sec. 33, N½N½, SW¼NE¼, S½SW¼, and W½SE¼;
  Sec. 34, NW¼NE¼, N½NW¼, and SE¼NW¼.
T. 44 N., R. 3 E.,
  Sec. 3, lot 2, SW¼NE¼, and E½SW¼;
  Sec. 4, S½NE¼ and NW¼SE¼;
  Sec. 5, S½NW¼, NW¼SW¼, and SE¼SE¼;
  Sec. 6, S½NE¼;
  Sec. 8, SW¼NE¼ and NE¼SE¼;
  Sec. 9, NE¼NE¼.
T. 45 N., 3 E.,
  Sec. 24, N½N½;
  Sec. 26, NE¼ and E½SE¼;

Sec. 32, S½NE¼ and N½SE¼;
Sec. 34, NE¼SE¼.
T. 45 N., R. 4 E.,
Sec. 2, lots 1 to 4, inclusive, W½SW¼, and E½SE¼;
Sec. 3, lots 1 to 8, inclusive, S½N½, and S½.

The areas described aggregate 9,114.44 acres in Latah and Shoshone Counties.

2. Jurisdiction of the following described National Forest System lands is hereby transferred to the Bureau of Land Management for subsequent transfer to the Potlatch Corporation. The transfer to the Potlatch Corporation will be subject to valid existing rights, which will be enumerated in the patent.

(a) The following described National Forest System lands have Weeks Law status:

Boise Meridian

T. 41 N., R. 1 E.,
Sec. 4, lot 1 and SE¼NE¼.
T. 43 N., R. 1 E.,
Sec. 22, NE¼SE¼;
Sec. 28, NW¼NE¼, NE¼NW¼, and W½SW¼;
Sec. 29, W½NE¼, NW¼, N½SW¼, and E½SE¼;
Sec. 30, lots 3 and 4, N½NE¼, SE¼NE¼, E½SW¼, and NE¼SE¼;
Sec. 31, lots 1 and 2;
Sec. 33, W½NW¼;
T. 46 N., R. 1 E.,
Sec. 23, NE¼SE¼;
Sec. 24, SE¼SW¼;
Sec. 25, N½NW¼;
Sec. 26, S½NW¼NW¼, S½S½NE¼NW¼, and SE¼NW¼;
Sec. 27, S½N½NE¼.
T. 42 N., R. 2 E.,
Sec. 1, lots 3 and 4, S½NW¼, and N½SW¼;
Sec. 2, lots 1 to 4, inclusive, S½NE¼, and N½SE¼;
Sec. 9, NE¼NW¼;
Sec. 23, NE¼SE¼.
T. 45 N., R. 2 E.,
Sec. 4, SE¼SW¼;
Sec. 5, lots 16 and 17;
Sec. 14, NW¼, W½SW¼, and NE¼SW¼.
T. 46 N., R. 2 E.,
Sec. 30, lots 3 and 4, SE¼SW¼, and SE¼SE¼, excluding .80 acre;
Sec. 32, S½NE¼, NE¼SW¼, and SE¼.
T. 45 N., R. 3 E.,
Sec. 7, lot 4 and SE¼NW¼;
Sec. 8, W½SW¼;
Sec. 9, SW¼NE¼, SE¼NW¼, and NE¼SW¼;
Sec. 10, lot 8;
Sec. 12, SW¼SW¼ less 5.9 acres south 198 ft.;
Sec. 15, SE¼NE¼, E½SW¼, and SE¼;
Sec. 17, N½NE¼ and NE¼NW¼;
Sec. 28, S½NE¼;
Sec. 29, NW¼NE¼, S½NW¼, and NW¼SE¼;
Sec. 31, W½NE¼ and NE¼NW¼.
T. 45 N., R. 4 E.,
Sec. 14, S½N½;
Sec. 16, lots 5 to 8, inclusive, and S½;
Sec. 19, lot 1, N½ of lot 2, NW¼NE¼, N½S½NE¼, NE¼NW¼; and N½SE¼NW¼;
Sec. 30, lots 2 to 4, inclusive, SE¼NW¼, and E½SW¼;
Sec. 32, N½N½, S½NE¼, SE¼NW¼, and NE¼SW¼;
Sec. 34, NW¼.
T. 42 N., R. 1 W.,
Sec. 4, lot 4 and SW¼NW¼.
T. 44 N., R. 1 W.,
Sec. 29, SW¼;
Sec. 30, SW¼NE¼ and E½SE¼;
Sec. 31, E½E½;
Sec. 32, SE¼NE¼, S½S½, and N½SE¼;
Sec. 33, E½;
Sec. 34, N½SW¼ and SW¼SW¼.
T. 45 N., R. 1 W.,
Sec. 7, lot 4.

(b) The following described National Forest System lands have reserved public domain status:

Boise Meridian

T. 43 N., R. 1 W.,
Sec. 12, S½NE¼, NW¼ and W½SW¼
T. 44 N., R. 2 W.,
Sec. 30, NW¼SE¼.
T. 43 N., R. 3 W.,
Sec. 3, lot 4, SW¼NW¼, and W½SW¼.
T. 44 N., R. 3 W.,
Sec. 26, N½NE¼, SE¼NE¼, and NW¼;
Sec. 32, lot 1, NE¼, NE¼NW¼, and S½NW¼;
Sec. 34, NE¼NE¼ and SW¼SW¼.

The areas described aggregate 7,978.91 acres in Benewah, Latah, and Shoshone Counties.

Dated: December 2, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

The following letter from the U.S. Forest Service provides their concurrence in the transfer of jurisdiction of lands identified in Public Land Order No. 6953:

Honorable Manuel Lujan, Jr.,
Secretary of the Interior, Room 6151, 1849 C Street, NW., Washington, D.C. 20240

Dear Mr. Secretary: This is to document the Department of Agriculture's concurrence with the transfer of jurisdiction of lands as identified in Public Land Order 6953, dated December 2, 1992. These lands are being transferred from the jurisdiction of the Secretary of Agriculture to the Secretary of the Interior for conveyance to the Potlatch Corporation as required by section 3(a)(2) of the Arkansas-Idaho Land Exchange Act of 1992 (Public Law 102–584).

Sincerely,

John H. Beuter,

Acting Assistant Secretary, Natural Resources and Environment.

[FR Doc. 93–602 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–GG–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7561]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 457, Lanham, MD 20706, (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 11291, Federal Regulation, February 17, 1981, 3 CFR 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibles—Emergency Program			
Indiana:			
Osceola, town of St. Joseph County	180506	Dec. 14, 1992	—
Iowa:			
Dallas County, unincorporated areas	190860	....do	Oct. 25, 1977.
Kansas:			
Marion County, unincorporated areas	200593	Dec. 29, 1992	Aug. 22, 1978.
New Eligibles—Regular Program			
Georgia:			
Spalding County, unincorporated areas	130388	Dec. 11, 1992	July 2, 1991.
Florida:			
Freeport, city of, Walton County	120319	Dec. 14, 1992	Apr. 30, 1986.
Georgia:			
Auburn, city of, Barrow County	130498	Dec. 15, 1992	May 18, 1992.
Reinstatements—Regular Program			
West Virginia:			
East Bank, town of, Kanawha County	540077	May 29, 1975, Emerg.; June 1, 1982, Reg.; Nov. 18, 1992, Susp.; Dec. 4, 1992, Rein.	June 1, 1982.
Virginia:			
Greene County, unincorporated areas	510200	Apr. 11, 1974, Emerg.; Sept. 10, 1984, Reg.; Dec. 2, 1992, Susp.; Dec. 11, 1992, Rein.	Sept. 10, 1984.
Pennsylvania:			
Sadsbury, township of, Crawford County	422396	Aug. 6, 1975, Emerg.; Aug. 19, 1991, Reg.; Aug. 19, 1991, Susp.; Dec. 11, 1992, Rein.	Aug. 19, 1991.
New York:			
Mooers, village of, Clinton County	361488	May 23, 1984, Emerg.; Jan. 17, 1986, Reg.; Nov. 4, 1992, Susp.; Dec. 22, 1992, Rein.	Jan. 17, 1986.
Saranac, town of, Clinton County	360171	May 9, 1978, Emerg.; June 5, 1985, Reg.; Nov. 4, 1992, Susp.; Dec. 22, 1992, Rein.	Mar. 3, 1992.
Angelica, village of, Allegany County	360023	June 8, 1976, Emerg.; Feb. 1, 1984, Reg.; Nov. 4, 1992, Susp.; Dec. 23, 1992, Rein.	Feb. 1, 1984.
Richburg, village of, Allegany County	360032	May 21, 1976, Emerg.; Jan. 5, 1978, Rein.; Nov. 4, 1992, Susp.; Dec. 23, 1992, Rein.	Jan. 5, 1978.
Virginia:			
Bath County, unincorporated areas	510196	Sept. 16, 1975, Emerg.; Sept. 10, 1984, Rein.; Dec. 20, 1992, Susp.; Dec. 29, 1992, Rein.	Sept. 10, 1984.
Florida:			
Minneola, city of, Lake County	120412	Jan. 24, 1977, Emerg.; Aug. 15, 1984, Rein.; Aug. 15, 1984, Susp.; Dec. 29, 1992, Rein.	Aug. 15, 1984.
REGULAR PROGRAM CONVERSIONS			
Region III			
Pennsylvania:			
Peters, township of, Franklin County	421654	Dec. 2, 1992, Suspension withdrawn	Dec. 2, 1992.

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date
Region VII			
Missouri:			
Cottleville, village of, St. Charles County .	290898	Dec. 15, 1992, Suspension withdrawn	Dec. 15, 1992.
O'Fallon, city of, St. Charles County	290361	.....do	Dec. 15, 1992.
St. Charles County, unincorporated areas	290315	.....do	Dec. 15, 1992.
St. Peters, city of, St. Charles County	290319	.....do	Dec. 15, 1992.
Wentzville, city of, St. Charles County	290320	.....do	Dec. 15, 1992.
St. Charles, city of, St. Charles County	290318	.....do	Dec. 15, 1992.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension, Rein.—Reinstatement.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: January 7, 1993.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 93–768 Filed 1–12–93; 8:45 am]

BILLING CODE 6718–21–M

44 CFR Part 64

[Docket No. FEMA–7560]

Suspension of Community Eligibility

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. These communities are located in Dade County, Florida and are currently participating in the NFIP under the Dade County Metropolitan Government. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATE: The effective date of each community's suspension is the third date ("Susp.") listed in the fourth column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–2717.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures.

The communities listed in this document have been participating in the NFIP under the eligibility of the Dade County (Florida) Metropolitan Government. On May 4–8, 1992, FEMA conducted a comprehensive Community Assistance Visit (CAV) of the administration of the NFIP by Dade County and by the 27 incorporated municipalities within Dade County. The CAV identified a significant number of program deficiencies and potential violations in many of the municipalities and in the unincorporated areas of the county. As a result of the findings and in order to allow the county and individual municipalities an opportunity to participate in the NFIP's Community Rating System (CRS), it was determined by the Federal Insurance Administration to change the eligibility status of Dade County from one metropolitan community to 28 separate communities. To implement the change, a countywide Flood Insurance Rate Map (FIRM) has been issued. It becomes effective on January 20, 1993. The FIRM includes community boundaries and new community identification numbers (CID's). Each community is required to meet the statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities which do not adopt compliant ordinances will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, many of these communities may make application, adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.**

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than one year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community's Chief Executive Officer has received a 6-month, 90-day, and 30-day notifications that the community will be suspended unless the community makes application and adopts the required floodplain management measures prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Federal Insurance Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4002, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirement, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981, 3 CFR, 1981 Comp., p. 127. No regulatory impact analysis has been prepared.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain federal assistance no longer available in special flood hazard areas
SUSPENSIONS				
Region IV				
Florida:				
Bay Harbour Islands, town of Dade County.	120637	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Jan. 20, 1993.
Florida City, city of Dade County	120641	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Hialeah Gardens, city of Dade County.	120644	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Homestead, city of Dade County	120645	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Indian Creek, village of Dade County	120646	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Islandia, city of Dade County	120647	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg., Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Key Biscayne, city of Dade County.	120648	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Medley, town of Dade County	120649	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
North Bay Village, city of Dade County.	120654	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Opa-Locka, city of Dade County	120657	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Surfside, town of Dade County	120659	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	Jan. 20, 1993	Do.
Sweetwater, city of Dade County	120660	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg., Jan. 20, 1993, Susp.	NSFHA[1]	Do.
West Miami, city of Dade County	120662	Aug. 14, 1970, Emerg.; Sept. 29, 1972, Reg.; Jan. 20, 1993, Susp.	NSFHA[1]	Do.

[1] No Special Flood Hazard Areas.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Issued: January 7, 1993.

C.M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 93-770 Filed 1-12-93; 8:45 am]

BILLING CODE 6718-21-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1832 and 1852

Addition of Coverage to NASA FAR Supplement on the Use of Milestone Billing Arrangements for Contract Financing

AGENCY: Office of Procurement, Procurement Policy Division, National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This notice amends the NASA Federal Acquisition Regulation Supplement (NFS), Chapter 18 of the Code of Federal Regulations. This rule sets forth the policies and criteria for the use of milestone billing arrangements for contract financing, as well as the cause to be included in contracts using such financing. It also sets forth the policy regarding advance payment determinations and findings for the use of milestone billing arrangements for expendable launch vehicle (ELV) services contracts.

EFFECTIVE DATE: This rule shall take effect on January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Le Cren, Procurement Analyst, Contracting Pricing and Financial Division (Code HC), Telephone: (202) 358-0444.

SUPPLEMENTARY INFORMATION:

A. Background

On July 13, 1992, a proposed rule to amend the NFS to add policies and criteria for the use of milestone billing arrangements for contract financing was published in the **Federal Register** (57 FR 30933) for comment. All comments were reviewed and, where warranted, changes have been made in the final rule.

Among the changes made are two clarifications. They involve 1832.7001, where it was made clear that milestone billing arrangements, although subject to prompt pay, are not subject to interest penalties; and 1832.7004 where it now states that milestone payments can continue for the next end item, if the time between deliveries of one major end item and the next exceeds three months and there is mutual agreement.

Several policy changes were also made. Those changes were to 1832.7004 (c) and (e). 1832.7004(c) was revised to allow for the delegation of processing milestone billing vouchers outside of NASA if specific directions are provided to the administrative contracting officer, and the contracting officer performs periodic reviews of the process. The change at 1832.7004(e) was to allow the milestone billing amounts to be changed due to economic price adjustments, if provided for in the economic price adjustment clause, and the changes to the milestone amounts occur at the same time as the contract price adjustment.

Other changes also occurred in the clause at 1852.232-83, specifically paragraphs (b), (c), (f), and (h)(3). The change at paragraph (b) is to streamline the voucher payment process by allowing for the contractor's voucher to be submitted at the same time as its certification, instead of after contracting officer verification of completion of the milestone. Paragraph (c) was revised to make it more consistent with 1832.7004(a) and also to incorporate the change made there. Paragraph (f) was changed to allow contractors to self-insure, as well as to purchase the insurance described. The final change was made at paragraph (h)(3) to allow for the payment of milestones completed out of sequence so long as the prior written consent of the contracting officer is obtained.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. This proposed regulation falls in this category. NASA certifies that this regulation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1832 and 1852

Government procurement.

Don G. Bush,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR parts 1832 and 1852 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1832—CONTRACT FINANCING

2. Part 1832 is amended as set forth below:

a. Section 1832.402-2 is added to read as follows:

1832.402-2 Expendable launch vehicle services contracts.

Determinations and findings are not required for advance payments for contracts supporting expendable launch vehicle (ELV) services contracts (however, see 1832.70 for Milestone Billing Arrangements). Instead all advance payments clauses for ELV services contracts shall be submitted to Code HC for concurrence prior to issuance of the solicitation (see 1832.7005), and to the Assistant Administrator for Procurement (Code HC) for approval prior to award (see 1832.7006).

b. Subpart 1832.70 is added to read as follows:

Subpart 1832.70—Milestone Billing Arrangements

Sec.

1832.7001 General.
1832.7002 Policy.
1832.7003 Criteria for use.
1832.7004 Contractual implementation.
1832.7005 Concurrence prior to solicitation.
1832.7006 Approval prior to contract award.
1832.7007 Subcontracts and contract amendments.
1832.7008 Solicitation and contract clause.

Subpart 1832.70—Milestone Billing Arrangements

1832.7001 General.

As authorized at FAR 32.102(e), milestone billing arrangements may be used for contract financing. Milestone billing arrangements fall between progress payments based on costs with unusual terms and advance payments in the order of preference specified in FAR 32.106. Milestone billing arrangements are contractual provisions which provide for payments to a contractor upon successful completion of specific performance events not involving physical deliveries to the Government. As milestone arrangements are interim payments with respect to total contract performance, they are fully recoverable, in the same manner as progress payments, in the event of default. Milestone payments shall not be considered as payments for contract items delivered and accepted, incentive price revisions, or inspection and acceptance provisions of the contract. Milestone billing arrangements are contract financing payments and as such are not subject to prompt payment interest penalties.

1832.7002 Policy.

In negotiating milestone billing arrangements, contracting officers must seek to establish an overall level of contract financing that will result in the contractor maintaining an appropriate investment in contract work-in-process inventory. The level of contract financing should be based on the number, value and timing of the milestone billing events, and the manner in which milestone payments are liquidated against contract line item deliveries. Therefore, proposed milestone billing arrangements should be carefully evaluated to ensure that contract financing objectives are being met, that the proposed milestone billing arrangement will not result in an unreasonably low or negative level of contractor work-in-process inventory, or create an administrative burden (e.g., too frequent payments).

1832.7003 Criteria for use.

(a) Milestone billing arrangements are limited to fixed-price type contracts in excess of $10 million with long lead times (at least 12 months) between the initial incurrence of costs under the contract and the delivery of the first end item.

(b) The contract shall not provide for progress payments based on cost or advance payments, with the exception of expendable launch vehicle (ELV) services contracts (see 1832.7003(d)).

(c) The established milestone events will be readily determinable.

(d) Milestone billing amounts shall not exceed the Government's best estimate of the cost to perform each milestone event. For ELV services contracts, 42 U.S.C. 2459c provides authority to make advance payments in conjunction with milestone billing arrangements. Advance payments provided under such arrangements must be reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs. However 42 U.S.C. 2459c provides considerable flexibility in determining what types of costs (committed, incurred, expended) may be considered in determining payment schedules for ELV services contracts. Individual milestone payments may exceed a contractor's incurred costs during performance only if the payment schedules comply with the intent of 42 U.S.C. 2459c, are considered fair and reasonable, and serve the Government's best interests.

(e) The contract milestones should represent the completion of substantial items of service or events that would normally require management visibility and attention to assure their timely accomplishment. Milestones should not be based on insignificant events, administrative functions, percentage of completion estimates, or the passage of time. The number of milestone events will be kept to a minimum.

1832.7004 Contractual implementation.

Contracts containing milestone billing arrangements will include the following requirements:

(a) Normally, milestone billings will not be submitted after deliveries of a major end item commences upon which milestone payments have been made. In the event the period between delivery of such major end item and the next end item delivery exceeds three months, milestone payments can continue to be made for the next end item as mutually agreed for appropriate events.

(b) Completion of each milestone must be certified by the contractor and verified by the contract administration office in order for payment to be made.

(c) The processing of milestone billing vouchers shall not be delegated outside NASA without specific instructions from the contracting officer, and the periodic review of payments by the contracting officer, e.g., reviews of action taken on issues that have arisen.

(d) The relationship between milestone billing events and deliverable contract line items will be clearly established in the contract. A milestone billing event should normally be associated with only one contract line item. However, a contract line item may have more than one related milestone billing event. Upon delivery and acceptance of a contract line item on which milestone payment(s) has/have been made, the amount of the related milestone payment(s) will be deducted from the amount otherwise payable for the contract line item.

(e) Milestone billing amounts will not be subject to the "Adjusting Billing Prices" paragraph of the "Incentive Price Revision-Firm Target clause (FAR 52.216–16(f)) in fixed-price incentive contracts, and will not be adjusted for actual costs incurred above or below the contract target cost. Adjustments to milestone billing amounts shall not be made unless specifically provided for in the economic price adjustment (EPA) clause of the contract. Furthermore, any adjustment to milestone amounts arising from an EPA clause shall be made at the same time as the contract price adjustment.

(f) Milestone payments are interim payments with respect to total performance, and, as such, are fully recoverable in the case of default, in the same manner as progress payments.

1832.7005 Concurrence prior to solicitation.

Prior to the issuance of a solicitation in which a milestone billing arrangement is made available, concurrence shall be requested in writing from Code HC. The request shall provide the reasons why a milestone billing arrangement is appropriate and include a copy of the milestone billing arrangement clause if it differs from the clause at 1852.232–83, Milestone Billing Arrangements.

1832.7006 Approval prior to contract award.

Subsequent to solicitation, but prior to contract award, a request for approval of the milestone billing arrangement shall be submitted to the Assistant Administrator for Procurement (Code HC). The request for approval should include the following information:

(a) The name and phone number of the contracting officer.

(b) A copy of the contractor's support for a milestone billing arrangement, including the rationale and statement of need for milestone billings.

(c) A copy of the proposed milestone billing clause.

(d) Description of the milestone billing events, with a schedule of milestone completion dates and milestone values, and the method of verifying completion.

(e) Description of the contract end items with their delivery schedule and prices.

(f) Proposed milestones and contract end items, with appropriate narrative showing how the milestone amounts were estimated and distributed to the contract end items for interim milestone payment and end item final payment purposes.

(g) Financial analysis (numeric and graphic) showing cash flow and contractor investment in the contractor work-in-process inventory, with and without milestone billings.

(h) Any other information considered relevant.

1832.7007 Subcontracts and contract amendments.

Subcontracts and amendments to prime contracts that incorporate milestone billing arrangements are also subject to the criteria, contractual implementation, concurrence and approval policies in this subpart. Requests for concurrence and approval shall be submitted to the prime contractor through the next higher tier subcontractor, if applicable, to the contracting officer.

1832.7008 Solicitation and contract clause.

(a) The contracting officer shall insert a clause substantially the same as the clause at 1852.232–83, Milestone Billing Arrangements, in solicitations and contracts when a fixed-price type contract will be awarded and a milestone billing arrangement is contemplated.

(b) The contracting officer shall include a clause substantially the same as the clause at 1852.232–84, Milestone Billing Arrangements—Subcontracts, in all solicitations and contracts when a fixed-price subcontract in excess of $10 million with a milestone billing arrangement is contemplated.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Sections 1852.232–83 and 1852.232–84 are added to read as follows:

1852.232–83 Milestone Billing Arrangements.

As prescribed in 1832.7008(a), insert the following clause.

Milestone Billing Arrangements (December 1992)

(a) A payment will be made to the contractor upon completion of each milestone event specified in paragraph (g) of this clause in the amount specified for the relevant milestone event.

(b) Upon completion of each milestone billing event, the contractor shall notify the contracting officer in writing, accompanied by a voucher and certification, that the milestone event has been completed. The contractor's written notification shall contain a brief narrative of the work activity accomplished for the particular milestone event. The contracting officer shall promptly verify that successful completion of the milestone event has occurred, notify the contractor of NASA's concurrence, and forward the contractor's voucher with a copy of the verification to the designated paying office.

(c) Milestone billings, normally, will not be submitted after deliveries of major end items commence upon which milestone payments have been made. In the event the period between delivery of such major end item and the next end item delivery exceeds three months, milestone payments can continue to be made for the next item, as mutually agreed for appropriate events.

(d) All milestone payments are interim contract financing payments with respect to total contract performance. As such, they are fully recoverable in the event of default under the Default clause. Therefore, all milestone payments made with respect to contract line items that are not delivered and accepted by the Government shall, in the event of a termination for default, be paid to the Government upon demand.

(e) The contractor shall establish and record a preferred creditor's lien on behalf of the Government, i.e., a first lien paramount to all other liens, in each jurisdiction where property subject to this contract is located. The lien shall be on the contractor's work-in-process covered by the contract, except to the extent that the Government by virtue of any other terms of this contract, or otherwise, shall have valid title to the supplies, materials, or other property as against other creditors of the contractor. The property subject to the liens shall include that to be acquired under subcontracts where payments are to be made to the subcontractor prior to the acceptance of such property. The contractor shall promptly provide to the Government a copy of all lien filings.

(f) The contractor represents and warrants that it maintains (1) insurance on plant and equipment against fire and other hazards, to the extent that similar properties are usually insured by others operating plants and properties of similar character in the same general locality; (2) adequate insurance against liability on account of damage to persons or property; and (3) adequate insurance under all applicable workers' compensation laws. The contractor agrees that, until work under this contract has been completed and all payments made under the contractor have been liquidated, it will maintain this insurance and furnish any certificates with respect to its insurance that the administering office may require.

(g) Upon successful completion of a milestone event, the contractor may request milestone payments based on the following milestone data:

Milestone event	Contract line item	Amount	Estimated date of completion
(1)			
(2)			
(3) etc.			

(h)(1) A milestone event may be successfully completed in advance of the date appearing in paragraph (g) of this clause. However, payment shall not be made prior to that date without the prior written consent of the contracting officer.

(2) The contractor is not entitled to partial payment for less than successful completion of a milestone event.

(3) All preceding milestone events must be successfully completed before payment can be made for the next milestone event, unless the prior written consent of the contracting officer is obtained.

(End of clause)

1852.232–84 Milestone billing arrangements—subcontracts.

As prescribed in 1832.7008(b), insert the following clause.

Milestone Billing Arrangements—Subcontracts (December 1992)

(a) The Contractor is prohibited from using milestone billing arrangements in subcontracts except in accordance with subpart 1832.70.

(b) The Contractor shall insert the substance of this clause, including this paragraph (b), in all subcontracts in excess of $10 million.

(End of clause)

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 217, 222, and 227

[Docket No. 921184–3004]

Sea Turtle Conservation; Restrictions Applicable to Fishery Activities

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

ACTION: Temporary turtle excluder device requirement for vessels in the summer flounder trawl fishery, and request for comments.

SUMMARY: NMFS requires owners and operators of vessels participating in the trawl fishery for summer flounder from Oregon Inlet to the southern border of North Carolina, to use turtle excluder devices (TEDs) in any net that is rigged for fishing, for a 30-day period starting January 7, 1993, unless exempted from doing so by NMFS. This action supersedes the action published on December 18, 1992 (57 FR 60135); the requirements herein modify and extend the requirements announced in the preceding action. As a result of this action, the size of the area where TEDs are required is reduced by moving the northern boundary from 37°05'N. latitude (Cape Charles, Virginia) to 35°46.1'N. latitude (Oregon Inlet, North Carolina). The purpose of this action is to relieve a restriction on fishermen in the summer flounder fishery while providing protection to endangered and threatened sea turtles for an extended period of time. The action is authorized by 50 CFR 227.72(e)(6).

DATES: This action is effective January 7, 1993 through February 8, 1993. Comments on this action must be received by February 8, 1993.

ADDRESSES: Requests for a copy of the environmental assessment for this action should be addressed to Dr. Michael F. Tillman, Acting Director, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Phil Williams, NMFS National Sea Turtle Coordinator (301/713–2319), Charles A. Oravetz, Chief, Protected Species Program, NMFS, Southeast Region (813/893–3366), or Colleen Coogan, Protected Species Program, NMFS, Northeast Region (508/281–9291).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA). According to the National Academy of Sciences, incidental takings in shrimp trawls are by far the leading cause of human-induced mortality to sea turtles in the water; collectively, activities in non-shrimp fisheries, which include the summer flounder fishery, constitute the second largest source.

NMFS took emergency action pursuant to 50 CFR 227.72(e)(6) to require the use of TEDs in the trawl fishery for summer flounder from Cape Charles, Virginia, to the southern border of North Carolina, and to require vessels to carry an observer, if selected to do so. These requirements were initially effective November 15, 1992, through December 15, 1992 (57 FR 53603, November 12, 1992), and were extended from December 16, 1992, through January 14, 1993 (57 FR 60135, December 18, 1992). The specific requirements, their background and rationale, and summaries of pertinent biological opinions were included in the cited **Federal Register** publications and are not repeated here.

Recent Events

NMFS' continuing review of the available information regarding the temporary TED requirement under the ESA in the summer flounder bottom trawl fishery indicates that conditions continue to necessitate the use of TEDs in some of the waters off North Carolina. Sea turtles and bottom trawling continue to co-occur in these waters based on observations of turtles, both at sea and from strandings on ocean beaches.

Incomplete reports show that 99 sea turtles have stranded on ocean beaches from New Jersey through North Carolina from October 29, 1992 through January 5, 1993, coinciding with the operation of the summer flounder fishery, as well as other fisheries, in the mid-Atlantic region. However, since NMFS' December 16, 1992, action to continue requiring TED use (57 FR 60135), five sea turtle strandings have been reported on North Carolina beaches. A stranding of a loggerhead sea turtle was reported south of Cape Hatteras, North Carolina, in Drum Inlet, as recently as January 2, 1993.

Three loggerhead sea turtles have been reported captured by a summer flounder trawler equipped with a TED during this temporary TED requirement. A NMFS observer on board this trawler south of Cape Hatteras observed two turtles caught during one tow and a third turtle caught in a second tow. Each of the turtles dropped into the water, apparently unharmed, upon net retrieval as a result of clogging which caused much of the catch, including the turtles, to overflow the net.

NMFS and the U.S. Coast Guard are continuing to conduct cooperative enforcement activities in the waters off of southern Virginia and North Carolina. NMFS has determined that compliance with the TED-use requirement has been good. Boardings have shown one alleged violation of the TED requirement since November 15, 1992.

NMFS has determined, based on past interactions between sea turtles and the summer flounder fishery, that bottom trawl nets without TEDs capture and kill sea turtles at a rate comparable to that of the shrimp trawl fishery along the southern U.S. Atlantic coast, where TED use is now required at all times. Based on this information, when turtles and summer flounder bottom trawling co-occur, the use of TEDs should be a required conservation measure.

However, based on available data regarding turtle distribution, fishing activity, and the turtle conservation measures that are currently in effect, the potential threat to sea turtles within the northern boundary of the TED-use area from Cape Charles, Virginia, to Oregon Inlet, North Carolina, has diminished since the onset of the summer flounder season. While there is risk to sea turtles associated with moving the northern boundary of the TED-use area southward, NMFS has determined that this risk is acceptable and will not jeopardize the continued existence of endangered and threatened sea turtles.

The distribution of sea turtles in the waters off southern Virginia and North Carolina during the late fall and winter appears to be greatly influenced by the Gulf Stream and the relatively warm waters associated with it. During the late fall and winter, as nearshore water temperatures cool, there is a general southward migration of sea turtles out of the estuarine and nearshore waters of the Mid-Atlantic Bight. But, turtles may remain off southern Virginia and North Carolina because of the presence of relatively warm waters associated with the northward flowing Gulf Stream. This is especially true south of Cape Hatteras, North Carolina, but may occur north of Cape Hatteras as well.

However, the influence of the Gulf Stream is unpredictable owing to the impacts of strong north winds in the fall and winter. Strong north winds will push colder nearshore water south, displacing the warmer Gulf Stream waters, and any turtles in them, offshore. If the north winds subside, however, the southward-flowing, cold-water system relaxes, and turtles move with the warmer water shoreward and northward.

In addition, turtles are capable of withstanding much cooler waters than previously believed. During the 1991–1992 summer flounder fishing season, turtles were caught by trawlers in waters where surface temperatures were 10 °C and were sighted in waters where surface temperatures were as cold as 6 °C. In fact, a loggerhead turtle, equipped with a satellite transmitter, is currently being tracked off Maryland and Delaware in surface water temperatures at or below 10 °C, demonstrating that some turtles appear to behave normally in relatively cold waters. However, while 23 percent of the turtles sighted in aerial surveys off Virginia and North Carolina during the 1991–1992 fishing season were in surface water temperatures of 10 °C or less, observations or captures of turtles in waters below 10 °C were substantially reduced.

Based on observed catch rates of turtles during the 1991–1992 fishing season, the greatest risk to sea turtles occurred south of Cape Hatteras. Catch rates were substantially greater (six to eight times as great) south of Cape Hatteras throughout the fishing season, though the density of turtles sighted during aerial surveys did not differ substantially north or south of Cape Hatteras throughout the season.

In 1991, based on available information, including the relatively cooler waters observed north of Cape Hatteras, NMFS moved the northern boundary of the turtle conservation zone, where restricted tow times were required, from Cape Charles, Virginia, to Oregon Inlet, North Carolina, effective December 27, 1991 (57 FR 213, January 3, 1992). After December 18, 1991, there were no observed or reported incidental captures of sea turtles in the trawl fishery for summer flounder north of Oregon Inlet. Only five captures, including one mortality, were recorded in December 1991 north of Oregon Inlet, all of which were loggerhead turtles.

Recent sea surface temperatures acquired by satellite sensors indicate that temperature conditions north of Oregon Inlet are similar to those observed in the latter part of December 1991. Based on last year's observations, NMFS expects that nearshore water temperatures north of Oregon Inlet will decline further, and that with this decline, the probability of sea turtle captures will also decline. Accordingly, NMFS finds that it can reduce the area

off southern Virginia and North Carolina where TEDs are required and extend the TED requirement for 30 days within the newly designated restricted area without jeopardizing the continued existence of endangered and threatened sea turtles.

Based on last year's observations of fishing activity after January 1, 1992, the nearshore summer flounder bottom trawl fishery occurred south of Oregon Inlet, and the remainder moved offshore, particularly into the canyon areas. No turtles were captured on boats with observers fishing in the offshore canyon area during January and February 1992.

However, NMFS cannot predict the extent or timing of the Gulf Stream influences on turtle distribution; as shown last season, such influences can occur throughout the winter. Therefore, NMFS will continue to monitor sea surface temperatures and Gulf Stream position to determine the risk to turtles by capture from trawlers. In addition, NMFS and the North Carolina Division of Marine Fisheries will monitor fishing activity and will continue its requirement for observers on selected flounder trawlers north and south of Oregon Inlet to monitor any incidental capture of turtles. If monitoring or observer reports, or other information indicate that the level of incidental take of sea turtles authorized as a result of consultation under section 7 of the ESA is being approached or is exceeded, the TED requirement may be reinstituted north of Oregon Inlet.

Comments on the Temporary TED-Use Requirement

No comments have been received on NMFS' December 16, 1992, action.

Sea Turtle Conservation Measures

Based on the information presented and evidence indicating that the summer flounder trawl fishery takes endangered and threatened sea turtles, the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that continued action is necessary to conserve sea turtles as authorized by 50 CFR 227.72(e)(6). The Assistant Administrator has determined that incidental takings of sea turtles during summer flounder fishing are unauthorized unless those takings are consistent with the applicable biological opinions and associated incidental take statements. A biological opinion on the impacts of the summer flounder trawl fishery managed under the Fishery Management Plan for the Summer Flounder Fishery (FMP) and Amendment 2 to the FMP was issued on August 10, 1992; that incidental take statement allows for the documented lethal take of 18 sea turtles; three in any combination of Kemp's ridley, hawksbill, green, or leatherback sea turtles; and 15 loggerhead turtles.

A new biological opinion was prepared for this action. Authorization for this action differs from the August 10, 1992, authorization by including both lethal takes and takes by injury. Furthermore, while only documented takes will be calculated for vessels using TEDs, takings for vessels that are not using TEDs may be based on direct observations or estimates from other on-board observers, or from other sources, such as reported strandings of sea turtles. NMFS has authorized a take, by death or injury, of one Kemp's ridley, hawksbill, green, or leatherback sea turtle; or three loggerhead turtles, during the effectiveness period of this action. If the authorized take is met or exceeded, NMFS may re-establish the requirement to use TEDs north of Oregon Inlet, or take other necessary measures.

Requirements

This action is authorized by 50 CFR 227.72(e)(6). The definitions in 50 CFR 217.12, as revised by the final regulations (57 FR 57348, December 4, 1992), are applicable to this action, as well as all relevant provisions in 50 CFR parts 217, 222, and 227. For example, § 227.71(b)(3) provides that it is unlawful to fish for or possess fish or wildlife contrary to a restriction specified or issued under § 227.72(e) (3) or (6). Section 227.72(b)(1) states that it is unlawful to own, operate, or be onboard a vessel, unless that vessel is in compliance with all the applicable provisions of § 227.72(e).

For purposes of this action, the term "summer flounder restricted area" means all offshore waters, which are defined to include waters seaward of the COLREGS (International Regulations for Preventing Collisions at Sea, 1972) demarcation line, bounded on the north by a line along 35°46.1'N latitude (Oregon Inlet) and bounded on the south by a line along 33°35'N. latitude (North Carolina-South Carolina border).

NMFS hereby notifies owners and operators of summer flounder trawl vessels that for a 30-day period, starting January 7, 1993, they must have an approved TED (as defined in 50 CFR 217.12) installed in each net that is rigged for fishing if the vessel is in the summer flounder restricted area. For the purpose of this action and nothwithstanding 50 CFR 227.72(e)(2)(i), a net is rigged for fishing if it is in the water or if it is shackled, tied, or otherwise connected to any trawl door or board.

The provisions of 50 CFR 227.72(e) (4) and (5) as revised by the final regulations (57 FR 57348, December 4, 1992), are applicable to summer flounder trawl vessels and summer flounder trawl gear as if they were shrimp trawlers or shrimp trawl gear. For purposes of this action, large-mesh webbing may be attached outside of the webbing flap to prevent chaffing on downward shooting TEDs, if it does not interfere with or otherwise restrict the turtle escape opening. It is the responsibility of the owner and the operator of any summer flounder trawl vessel to ensure that any sea turtle taken by that vessel is handled and resuscitated in accordance with the requirements specified under 50 CFR 227.72(e)(1) (i) and (ii).

The Assistant Administrator may grant a written waiver of the requirement for a summer flounder trawler to have a TED in its net(s) if that vessel is conducting research operations approved under 50 CFR 227.72(e)(5)(ii) (for further information concerning waivers contact Director, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702, (813/893–3366)). In order for this waiver to be applicable, the written waiver issued by the Assistant Administrator must be carried onboard the vessel at all times that the vessel is in the summer flounder restricted area and does not have a TED installed in each of its nets that is rigged for fishing.

The Assistant Administrator may consider the use of restricted tow times instead of TEDs in the future. Any allowance for trawlers to use restricted tow times instead of TEDs may require that the vessel operators carry a NMFS-approved observer at their own expense and limit tow times to no longer than 75 minutes, measured from the time the trawl doors or boards enter the water until they are removed from the water.

NMFS hereby notifies owners and operators of summer flounder trawl vessels that they must carry a NMFS-approved observer onboard such vessel(s) if selected to do so by the Director, Southeast Region, NMFS, upon written notification sent to either the address specified for the vessel in either the NMFS or state fishing permit application, or for registration or documentation purposes, or otherwise served on the owner or operator of the vessel. A summer flounder trawl vessel must comply with the terms and conditions specified in such written notification.

A NMFS-approved observer may be required regardless of whether the

vessel is fishing within the summer flounder restricted area and regardless of whether the summer flounder trawl vessel has TEDs installed in its nets if observer information is necessary to document interactions with sea turtles or to determine the effectiveness of conservation measures.

All NMFS-approved observers will report any violation of the conservation measures required by this action, or other applicable regulations and laws; such information can be used for law enforcement purposes.

Any person who does not comply with any requirement in this document, including any term or condition in any written notification issued hereunder, is in violation of the final sea turtle conservation regulations, codified at 50 CFR 227.71(b)(3).

Additional Sea Turtle Conservation Measures

The Assistant Administrator may, at any time, modify the requirements of this action through notification in the Federal Register, if necessary, to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the Assistant Administrator will impose any necessary additional or more stringent measures, if he determines that summer flounder trawl vessels are having a significant adverse effect on sea turtles. Likewise, conservation measures may be modified if the incidental take for the fishery is projected to reach the incidental take level established by the biological opinion for this action issued as a result of consultation under section 7 of the ESA. Additional conservation measures are likely if one or more Kemp's ridley, hawksbill, green, or leatherback sea turtle; or three loggerhead turtles, are lethally taken or injured by summer flounder trawlers subject to this notice during the 30-day effectiveness period of this notice.

The Assistant Administrator will impose additional conservation measures on this fishery if the incidental take level is approached or exceeded, or if significant or unanticipated levels of lethal or nonlethal takings or strandings of sea turtles associated with summer flounder fishing activities occur. Such additional measures may expand the restricted area or the time during which TEDs are required or impose requirements to carry NMFS-approved observers at the expense of vessel owners or operators. The Assistant Administrator may withdraw or modify the requirement for specific conservation measures or any restriction on fishing activities if the Assistant Administrator determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of the 30-day requirement to use TEDs in summer flounder trawls, will be published in the Federal Register.

Classification

The Assistant Administrator has determined that this action is necessary in order to continue protections for threatened and endangered sea turtles in an area south of Oregon Inlet; without further action current protections under the ESA would expire on January 14, 1993, and significant numbers of sea turtles are likely to be taken in the summer flounder fishery in that area. The Assistant Administrator also has determined that this action is necessary to relieve a restriction on fishermen in the trawl fishery for summer flounder in an area north of Oregon Inlet where there is less risk of incidental takings of sea turtles. This action is consistent with the ESA and other applicable law. This action does not require a regulatory impact analysis E.O. 12291 because it is not a major rule.

Because neither section 553 of the Administrative Procedure Act (APA), nor any other law, requires that general notice of proposed rulemaking be published for this action, under section 603(b) of the Regulatory Flexibility Act, an initial regulatory flexibility analysis is not required.

The Assistant Administrator prepared an environmental assessment (EA) for this action that concludes that it will have no significant impact on the human environment. A copy of the EA is available (see ADDRESSES).

The Assistant Administrator finds there is good cause to take this action without full notice and opportunity for comment under section 553(b)(B) of the Administrative Procedure Act (APA). The Assistant Administrator finds that full notice and opportunity for comment is unnecessary, impracticable, and contrary to the public interest. Comments were requested on the initial emergency action (57 FR 53603, November 12, 1992) and a subsequent action (57 FR 60135, December 18, 1992). Comments received were responded to previously. Further comments on this action are invited. Providing full notice and opportunity for comment before this action becomes effective may cause unnecessary economic hardship on fishermen before January 14, 1992, and is likely to result in significant incidental takings of sea turtles after that date; such incidental takings could jeopardize the continued existence of some species of sea turtles or could result in the closure of the fishery. NMFS will continue to monitor the situation in order to insure that adequate protections are maintained for sea turtles.

In addition, the Assistant Administrator has determined that good cause exists to waive the delayed effectiveness date otherwise required by section 553(d) of the APA; such a delay would be impracticable and contrary to the public interest. With respect to the area south of Oregon Inlet, this action continues an existing requirement to use TEDs in the summer flounder fishery and additional time to prepare to comply with this requirement is unnecessary. With respect to the area north of Oregon Inlet, this action relieves a restriction (the requirement to use TEDs) that would otherwise apply to fishermen in the trawl fishery for summer flounder and that may cause an economic hardship. NMFS will continue to provide TED technology assistance to fishermen in order to facilitate compliance.

List of Subjects

50 CFR Part 217

Endangered and threatened species, Exports, Fish, Imports, Marine Mammals, Transportation.

50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

50 CFR Part 227

Endangered and threatened species, Exports, Imports, Marine Mammals, Transportation.

Dated: January 7, 1993.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 93–683 Filed 1–7–93; 3:04 pm]

BILLING CODE 3510–22–M

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50 CFR Part 228

[Docket No. 910802–2336]

Taking of Ringed Seals Incidental to On-Ice Seismic Activity

January 6, 1993.

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations that govern the taking of ringed seals incidental to oil and gas exploratory activities (seismic operations on the ice) in the Beaufort Sea from 1993 through 1997. The incidental taking of small

numbers of marine mammals is allowed under section 101(a)(5) of the Marine Mammal Protection Act (MMPA) if certain findings are made and regulations are issued that include requirements for monitoring and reporting.

EFFECTIVE DATE: This rule will be effective from February 12, 1993 through December 31, 1997.

ADDRESSES: Dr. Michael Tillman, Acting Director, Office of Protected Resources, 1335 East-West Highway, Silver Spring, MD 20910. Send comments on the collection of information burden estimate to the Office of Information and Regulatory Affairs, Project (0648–0151), Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz, Office of Protected Resources, NMFS, (301) 713–2322 or Ron Morris, Western Alaska Field Office, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5) of the MMPA directs the Secretary of Commerce (Secretary) to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted for periods of 5 years or less if the Secretary finds that the taking will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of the species or stock for subsistence uses. Specific regulations governing a taking of ringed seals incidental to on-ice seismic activity (47 FR 21254, May 18, 1992, and 52 FR 1199, Jan., 12, 1987) expired December 31, 1991.

Summary of Request

On April 8, 1992, NMFS received a petition from BP Exploration (Alaska), Chevron U.S.A., Inc., Halliburton Geophysical Services, Inc. and Western Geophysical Company to renew the incidental take regulations in 50 CFR part 228, subpart B, that govern the taking of ringed seals incidental to seismic activities on the ice offshore Alaska for a period of 5 years.

The scope of the request is limited to pre-lease and post-lease seismic exploration activities in State waters and the Outer Continental Shelf in the Beaufort Sea offshore Alaska during the ice-covered season. Operations are usually confined from January through May. Seismic surveys are conducted using two types of energy sources: (1) Vibroseis, which uses large trucks with vibrators mounted on them, which systematically put variable frequency energy into the earth, and (2) waterguns or airguns carried by a sleigh or other vehicle. Over the next 5-year period, the petitioners expect on-ice seismic activity to cover from 1,000 to 3,000 line miles (200 to 600 miles) (322 to 965 km) in any given year.

NMFS published a notice of the request for rulemaking on May 14, 1992 (57 FR 20667), and a proposed rulemaking on September 15, 1992 (57 FR 42538).

Summary of Final Rule

The final regulations apply only to the incidental taking of ringed seals (*Phoca hispida*) by U.S. citizens engaged in seismic activities on the ice and associated activities in the Beaufort Sea from the shore outward to 45 miles (72 km) and from Point Barrow east to Demarcation Point and only from January 1 through May 31 of any calendar year.

The incidental, but not intentional, taking of ringed seals by U.S. citizens holding a Letter of Authorization is permitted during the following activities:

(1) On-ice geophysical seismic activities using two types of energy sources (i.e., vibroseis or waterguns or airguns) and

(2) Operation of transportation and camp facilities associated with seismic activities.

All activities must be conducted in a manner that minimizes adverse effects on ringed seals and their habitat. The activities must be conducted as far as practicable from any observed ringed seals or ringed seal lair. No energy source may be placed over an observed seal lair.

The requirements for monitoring and reporting include designating a qualified individual to observe and record the presence of ringed seals and ringed seal lairs along shot lines and around camps. An annual report must be submitted to NMFS within 90 days of completing the year's activities.

Comments

Comments on the proposed rulemaking were received from the Marine Mammal Commission (Commission), Unocal Corporation and two individuals. The Commission is concerned that although it seems unlikely that any one on-ice seismic, drilling, or related support activity would adversely affect the ringed seal populations in the Beaufort or Chukchi seas, it may be that the activities collectively are having or could have a significant adverse effect on the ringed seal populations and/or the dependent polar bear populations (ringed seals are a common food source for polar bears). Therefore, the Commission recommended that NMFS consult with the Minerals Management Service, the Fish and Wildlife Service, the Alaska Department of Fish and Game and relevant industry and Native groups to agree upon and, as possible, arrange for cooperative funding of a long-term program to monitor the status of the ringed seal population(s) in Alaskan waters.

Also, the Commission is concerned that the required monitoring program is not adequate to determine the number of ringed seals taken by the activities and the significance of the effects of the taking. Two marine mammal biologists also suggested that the proposed monitoring requirements would not result in monitoring as intended by the MMPA due to the winter behavior of ringed seals which prevents them or their lairs and breathing holes from being observed from the surface of the ice by humans. The Commission recommended that NMFS (a) assess whether the activity-specific monitoring program required by the proposed rule is likely to provide an accurate estimate of the number of ringed seals affected by the authorized activities, and the nature and significant of the effects and (b) identify and take into account activities, in addition to Native subsistence hunting and the planned seismic surveys and related support activities, that may affect ringed seals and their habitat in areas offshore Alaska. The biologists believe that only trained dogs are able to detect the presence of ringed seal breathing holes and lairs.

Response to Comments

In conjunction with a spring 1993 workshop to review monitoring programs required for open-water energy exploration activities in the Beaufort Sea, NMFS plans to consult with the industry and relevant Federal, State and local agencies concerning a long-term program to monitor the status of ringed seal populations in Alaskan waters.

Although the industry estimated that on-ice seismic activities might cover a maximum of 1,800 square nautical miles annually between 1987–1991, NMFS actually authorized a take of ringed seals incidental to only about 800 square nautical miles of on-ice seismic operations during the entire 5-year period. This allowed incidental take may have resulted in a displacement of

about 480 ringed seals (out of an estimated arctic Alaska population of 1 to 1.5 million) during that time. No on-ice seismic operations were conducted in 1992, and no more than 600 square nautical miles are predicted for any year during 1993–1997. Therefore, NMFS does not believe that the low level of on-ice seismic activity that has occurred in the past and that is predicted for the next 5 years warrants a more extensive monitoring program than is being required. However, at the workshop referenced above, NMFS will also consult with appropriate groups to determine whether a different or more extensive monitoring plan, as recommended, is appropriate.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The regulations are not likely to result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce has certified that this rule will not have a significant economic impact on a substantial number of small entities as described in the Regulatory Flexibility Act because members of the industry requesting the authorization are major energy exploration companies. Therefore, a regulatory flexibility analysis is not required.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. These requirements have been approved by the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act issued under OMB Control Number 0648–0151. Public reporting burden for this collection of information is estimated to average 27.5 hours per response including the time to review instructions, search existing data sources, gather and maintain the data needed and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Assistant Administrator has determined that this rule is consistent to the maximum extent practicable with the approved Coastal Zone Management Program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 3.7 of the Coastal Zone Management Act.

NMFS prepared an environmental assessment (EA) for this rulemaking and concluded that there would be no significant impact on the human environment as a result of this rule. Copies of the EA are available on request (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 228

Marine mammals, Reporting and recordkeeping requirements.

Dated: January 6, 1993.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries.

For the reasons set forth in the preamble, 50 CFR part 228 is amended as follows:

PART 228—REGULATIONS GOVERNING SMALL TAKES OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES

1. The authority citation for part 228 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Section 228.11 is revised to read as follows:

§ 228.11 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of ringed seals (*Phoca hispida*) by U.S. citizens engaged in on-ice seismic exploratory and associated activities over the Outer Continental Shelf of the Beaufort Sea of Alaska, from the shore outward to 45 miles (72 km) and from Point Barrow east to Demarcation Point, from January 1 through May 31 of any calendar year.

3. Section 228.12 is revised to read as follows:

§ 228.12 Effective dates.

Regulations in this subpart are effective from February 12, 1993 through December 31, 1997.

4. In § 228.13, paragraphs (b) and (c) are revised to read as follows:

§ 228.13 Permissible methods.

* * * * *

(b) All activities identified in § 228.13(a) must be conducted in a manner that minimizes to the greatest extent practicable adverse effects on ringed seals and their habitat.

(c) All activities identified in § 228.13(a) must be conducted as far as practicable from any observed ringed seal or ringed seal lair. No energy source must be placed over an observed ringed seal lair, whether or not any seal is present.

5. In § 228.14, paragraph (b) and paragraph (c) introductory text are revised to read as follows:

§ 228.14 Requirements for monitoring and reporting.

* * * * *

(b) Holders of Letters of Authorization must designate a qualified individual or individuals to observe and record the presence of ringed seals and ringed seal lairs along shot lines and around camps, and the information required in § 228.14(c).

(c) An annual report must be submitted to the Assistant Administrator for Fisheries within 90 days after completing each year's activities and must include the following information:

* * * * *

[FR Doc. 93–718 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–22–M

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50 CFR Part 642

[Docket No. 920246–2229]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Trip limit reduction.

SUMMARY: NMFS reduces the trip limit to 1000 pounds (454 kg) per day for the commercial fishery for Spanish mackerel from the southern zone of the Atlantic migratory group. NMFS has determined that 80 percent of the adjusted commercial allocation of Atlantic migratory group Spanish mackerel was reached on January 7, 1993. This trip limit reduction is necessary to protect the overfished Atlantic Spanish mackerel resource.

EFFECTIVE DATE: The 1000-pound (454-kg) commercial trip limit is effective on January 8, 1993, through March 31, 1993, unless 100 percent of the adjusted commercial allocation is harvested prior to March 31, in which case the trip limit

will be further reduced by publication of a notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP), prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils, and its implementing regulations at 50 CFR part 642, under the authority of the Magnuson Fishery Conservation and Management Act.

Commercial trip limits for Atlantic migratory group Spanish mackerel for the current fishing year (April 1, 1992, through March 31, 1993) were approved under Amendment 6 to the FMP and published in the **Federal Register** on December 9, 1992 (57 FR 58151). In accordance with 50 CFR 642.27(a)(2)(iii), the commercial vessel trip limits in the southern zone are to be set at 1000 pounds (454 kg) per day when 80 percent of the adjusted allocation is taken. The southern zone extends from the Georgia/Florida boundary (30°42′45.6″N. latitude) southward to a line extending directly east from the Dade/Monroe County, Florida, boundary (25°20.4′N. latitude). The adjusted allocation for Atlantic group Spanish mackerel, as set forth at 50 CFR 642.27(b), is 3.25 million pounds (1.47 million kg), and, thus, 80 percent of the adjusted allocation is 2.60 million pounds (1.18 million kg).

As required by 50 CFR 642.27(b), NMFS announces that 80 percent of the adjusted allocation was reached on January 7, 1993. Accordingly, the commercial trip limit for Spanish mackerel in the southern zone is 1000 pounds (454 kg) per day effective January 8, through March 31, 1993, the end of the fishing year, unless 100 percent of the adjusted allocation is taken prior to that date, in which case the trip limits will be further reduced to 500 pounds (227 kg) by notice in the **Federal Register**.

Classification

This action is required by 50 CFR 642.27 (a)(2)(iii) and (b) and complies with E.O. 12291.

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

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 7, 1993.

David S. Crestin,

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

[FR Doc. 93–690 Filed 1–7–93; 3:27 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 8
Wednesday, January 13, 1993

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1956

RIN 0575–AB26

Debt Settlement—Community and Business Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its policies and procedures governing debt settlement of Community Programs Loans. These changes are necessary to comply with section 2384, title XXIII, of the Food, Agriculture, Conservation, and Trade Act of 1990 (Pub. L. 101–624). This law is to establish and implement a program that is similar to the program established under section 353 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001), except that the debt restructuring and loan servicing procedures shall apply to delinquent Community Facility hospital or health care program loans rather than Farmer Program loans. The intended effect is to keep these facilities in operation with manageable debt.

DATES: Written comments must be received on or before February 12, 1993.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations Analysis and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address. The reporting requirements contained in this regulation have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 30 hours per response with an average of 8.15 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, Attention: Desk Officer for the Farmers Home Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Joyce Brooks, Loan Specialist, Community Facilities Division, Farmers Home Administration, room 6320, South Agriculture Building, Washington, DC 20250, telephone (202) 382–1506.

SUPPLEMENTARY INFORMATION:

Classification

This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor. The proposed action is not likely to result in any of the following: (a) An annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This action is not expected to substantially affect budget outlay or to affect more than one agency or to be controversial The net result is expected to provide better service to rural communities.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Program." FmHA has determined that the proposed 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 (Pub. L. 91–190), an Environmental Impact Statement is not required.

Regulatory Reform: Less Burdensome or More Efficient Alternatives

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 from 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 purposes described in the proposal. Comments suggesting less burdensome or more efficient alternatives should be addressed to the agency as provided in this Notice.

Executive Order 12778

The proposed regulation had been reviewed in light of Executive Order (E.O.) 12778 and meets the applicable standards provided in sections 2(a) and (2)(b)(2) of that E.O. Provisions within this part which are inconsistent with State law are controlling. All administrative remedies pursuant to 7 CFR part 1900, subpart B, must be exhausted prior to filing suit.

Intergovernmental Review

This action affects the following FmHA programs as listed in the Catalog of Federal Domestic Assistance: No. 10.423 Community Facility Loans. This

program is subject to the provisions of E.O. 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V; 48 FR 29112, June 24, 1983, 49 FR 2267, May 31, 1984, 50 FR 14088, April 10, 1985.)

Discussion

Section 2384 of the Food, Agriculture, Conservation, and Trade Act of 1990, Public Law 101–624, amended the Consolidated Farm and Rural Development Act and requires the Secretary of Agriculture to develop a debt restructuring and loan servicing program for FmHA hospital or health care facilities borrowers. This program is similar to the loan restructuring and servicing program in effect for delinquent Farmer Program loans. This proposed rule would amend current FmHA regulations to implement this program. The program is intended to facilitate the continued operation of rural hospitals and health care facilities by implementing all possible debt restructuring options available that will result in an economically viable facility.

Given the congressional intent to provide rural hospitals and health care facilities a debt restructuring option similar to that provided Farmer Program borrowers, this proposed regulation is modeled in a general sense on the Farmer Program restructuring scheme. Under the proposal, a hospital or health care borrower who is delinquent on its FmHA loan, and is unable to cure its delinquency through more traditional servicing methods, will be notified of the options available for debt restructuring. The borrower can apply for consideration by providing financial and operational information and proposing its own plan for curing the delinquency.

In order to be eligible for consideration for debt restructuring, the borrower's delinquency must have been caused by factors outside the borrower's control. In addition, the borrower must have acted in good faith with regard to the FmHA loan. FmHA will make these determinations based on the borrower's representation and the Agency's review of other documents relevant to these preliminary matters.

Once the borrower provides the financial and operational information required, FmHA will conduct a thorough analysis of the borrower's operations. This analysis will typically include contracting for an independent appraisal of the collateral securing the loan and contracting with an independent expert to prepare an "operations review." This review will provide FmHA with information regarding the facility's operations, its financial standing, and suggest alternatives that could be implemented to address the delinquency.

Using the information obtained from these sources and in consultation with the borrowers and the experts, FmHA will calculate two values as required by the statute. First, FmHA will determine the loan's "net recovery" value. This value represents the current value of the loan, if FmHA were to foreclose. Generally, the value is calculated by adding the value of assets securing the loan and subtracting the costs that would be incurred if the loan was foreclosed. Second, FmHA will determine the value of the restructured loan. This value is determined after a proposed plan is developed for the operation of the facility. That is, the operation and/or debt is modified to determined if the borrower can attain a positive cash flow and pay an adjusted debt service payment plus fund the FmHA reserve account.

After the restructured loan value and the net recovery value are calculated, FmHA can determine whether the borrower's request for debt restructuring can be approved. As required by the statute, FmHA can approve debt restructuring only if the value of the restructured loan is greater than, or equal to, the net recovery value. Once the Agency reaches this conclusion, the borrower will be notified of the results and given its options. If possible, the debt will be restructured and the facility will continue operations. If the net recovery value is greater than the value of the restructured loan, the borrower may choose to pay off the loan at the reduced net recovery value. If this option is not chosen, the loan likely will be accelerated.

Finally, if the borrower's debt is restructured or if the borrower elects to pay off the debt at the net recovery value, then the borrower will be required to execute an Appreciation Recapture Agreement. As explained in the statute, these agreements allow the Agency to recoup a part or all of the debt that is written down if the borrower's underlying collateral appreciates in value over time and if the borrower sells the collateral within 10 years.

List of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agricultural, Rural areas.

Accordingly, FmHA proposes to amend chapter XVIII, title 7, Code of Federal Regulations, as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for Part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Debt Settlement—Community and Business Programs

2. Section 1956.102 is amended by redesignating the introductory text as paragraph (a), adding a title, and by adding a new paragraph (b) to read as follows:

§ 1956.102 Application of policies.

(a) *General.* * * *

(b) *For hospitals and health care facilities only.* Loan servicing and debt restructuring options according to § 1956.146 must be exhausted before the other settlement authorities of this subpart are applicable.

3. Section 1956.146 is added to read as follows:

§ 1956.146 Debt restructuring—hospitals and health care facilities.

This section pertains exclusively to delinquent Community Facility hospital and health care facilities. Those facilities which are non-program (NP) loans as defined in § 1951.203(f) of subpart E of part 1951 of this chapter are excluded. The purpose of debt restructuring is to keep the hospital or health care facility in operation with manageable debt.

(a) *Definitions.* As used in this section, the following definitions apply:

(1) *Consolidation.* The combining of two or more debt instruments into one instrument, normally accompanied by amortization.

(2) *Debt writedown.* A one-time reduction of the debt owed to FmHA including principal and interest with a limit of $300,000 per borrower. The writedown will be applied first to interest and then principal.

(3) *Delinquent borrower.* For purposes of this section, delinquency is defined as being 180 days behind schedule on the FmHA payments. That is, one full annual installment, or the equivalent for monthly, quarterly, or semiannual installments.

(4) *Delinquency due to circumstances beyond the control of the borrower.* Includes situations such as: The borrower has less money than planned due to unexpected and uncontrollable events such as unexpected loss of service area population, unforeseeable costs incurred for compliance with State or Federal regulatory requirements, or the loss of key personnel.

(5) *Eligibility.* Applicants must be delinquent due to circumstances beyond

their control and have acted in good faith by trying to fulfill the agreements with FmHA in connection with the delinquent loans.

(6) *Interest rate reduction.* Reduction of the interest rate on the restructured loan to as low as 5 percent.

(7) *Loan deferral.* The temporary delay of principal and interest payments for up to 6 months. The borrower must be able to demonstrate the ability to pay the debt, as restructured, at the end of this delay period.

(8) *Net recovery value.* A calculation of the net value of the collateral and other assets held by the borrower. This value would be determined by adding the fair market value of FmHA's interest in any real property pledged as collateral for the loan, plus the value of any other assets pledged or otherwise available for the repayment of the debt, minus the anticipated administrative and legal expenses that would be incurred in connection with the liquidation of the loan. This value of the assets should be calculated based upon the facility continuing to operate as a going concern. Therefore, the facility should be valued not merely as an empty building but as a facility continuing to offer health care services which may, or may not, be similar to that offered by the current operators.

(9) *Operations review.* A study of management and business operations of the facility by an independent expert. For example, a study of a hospital and nursing home would include such areas as: General and administrative, dietary, housekeeping, laundry, nursing, physical plant, social services, income potential, Federal, State, and insurance payments, and rate analysis. Also, recommendations and conclusions are to be included in the study which would indicate the creditworthiness of the facility and its ability to continue as a going concern. In analyzing a borrower's proposed restructuring plan, FmHA may contract for the completion of an operations review. These reviews will be developed by individuals and entitles who have demonstrated an expertise in the analysis of health care facilities from an operational and administrative standpoint. FmHA will consider the following criteria for selection: Past experience in health care facility analysis, a familiarity with the problems of rural health care facilities, a knowledge of the particular area currently served by the facility in question, and a willingness to work with both FmHA and the borrower in developing a final plan for restructuring.

(10) *Restructured loan.* A revision of the debt instruments including any combination of the following: writing down of accumulated interest charges and principal, deferral, consolidation, and adjustment of the interest rates and terms, usually followed by reamortization.

(b) *Borrower notification.* All servicing actions permitted under subpart E of Part 1951 of this chapter are to be exhausted prior to consideration for debt restructuring under this section. To this end, the servicing official must ensure that the case file clearly documents that all servicing actions under subpart E of part 1951 have been exhausted and that the borrower is at least 1 full year's debt service behind schedule for a minimum of 180 days. The borrower then should be informed of the debt restructuring available under this section by using language similar to that provided in Guide 1 of this subpart (available in any FmHA Office) as follows:

(1) An introductory paragraph:

(2) A paragraph concerning prior servicing attempts;

(3) A discussion of eligibility, as defined in this section, including the provision that the borrower acted in good faith in connection with their FmHA loan and that the delinquency was caused by circumstances beyond their control;

(4) A paragraph that explains the goal of the debt restructuring program;

(5) A paragraph stating that debt restructuring may include a combination of servicing actions listed in paragraph (a)(10) of this section; and

(6) Information that details what the borrower must do to apply for restructuring. A response must be received within 45 days of receipt of this letter to request consideration for debt restructuring and the request must include:

(i) Projected balance sheets, budgets, and cash flow statements which include and clearly identify funding of the FmHA reserve account for the next 3 years;

(ii) A discussion of FmHA's analysis and calculation process; and

(iii) A paragraph identifying the FmHA official who may be contacted for assistance.

(c) *State Director's restructuring determination.* Upon receipt of the delinquent borrower's request for debt restructuring consideration, the FmHA State Director will:

(1) Within 15 days of receipt of borrower's request if an operations review is deemed necessary, send a memorandum to the Administrator asking for program authority to contract for the review in accordance with FmHA Instructions 2024–A, Exhibit D (available in any FmHA Office). The name of the borrower involved and the projected amount of funds anticipated to be spent for the contract should also be provided. It is anticipated that an operations review will be necessary in most cases and that the only exceptions would be for smaller health care facilities or facilities that have developed a proposed plan that is comprehensive and realistic. Upon receipt of the Administrator's program contracting approval authority, a contract is to be awarded to an organization qualified to perform an operations review as defined in paragraph (a)(9) of this section. The operations review normally will be completed and delivered to FmHA within 60 days of the award date.

(2) Contract for an appraisal to be performed by an independent qualified fee appraiser. Note: To the extent possible, the appraisal should be scheduled for completion no later than the completion date of the operations review.

(3) Complete an analysis of the operations review, appraisal, and other documentation information, and make an eligibility determination.

(i) *Eligibility determination.* The State Director must conclude that the borrower is eligible for debt restructuring consideration. This conclusion will be clearly documented in the case file based on a review of the following:

(A) The borrower acted in good faith with regard to the delinquent loan. The case file must reflect the borrower's cooperation in exploring servicing alternatives. The case file should contain no evidence of fraud, waste, or conversion by the borrower, and no evidence that the borrower violated the loan agreement or FmHA regulations.

(B) The delinquency was caused by circumstances beyond the control of the borrower. This determination will be based on the borrower's narrative on this issue, which is a required part of the application for debt restructuring, and a separate review of the borrower's case file and operations.

(C) As part of the application for debt restructuring, the borrower submitted a proposed operating plan that presents feasible alternatives for addressing the delinquency.

(ii) *Borrower determined eligible.* If the borrower is determined to be eligible for debt restructuring, a determination of a net recovery value and level of debt the facility will support will be made. It is anticipated that meetings with the borrower, the contractor who performed the operations review, and others as appropriate, could be necessary to develop these values; although it should

be emphasized throughout these meetings that any calculations and conclusions reached are preliminary in nature, pending final review by the Administrator. For debt restructuring calculations, and computing a feasible cashflow projection, the following order and combinations of loan servicing actions will be followed:

(A) Loan deferral for up to 6 months.

(B) Interest rate reduction to not less than 5 percent. Interest rate reduction will be considered only in conjunction with an extension of the term of the loan to the remaining useful life of the facility or 40 years, whichever is less.

(C) Debt writedown. Other creditors of the borrower, representing a substantial portion of the total debt, are expected to participate in the development of a restructuring plan which includes debt writedown. However, failure of these creditors to agree to participate in the plan shall not preclude the use of principal and interest writedown by FmHA if it is determined that this option results in the least cost to the Federal Government.

(iii) *Borrower determined ineligible.* If the State Director concludes that the borrower is not eligible for debt restructuring consideration for any of the reasons listed in paragraph (c)(3)(i) of this section, then the borrower will be notified by letter that includes the following information:

(A) The basis for the determination;

(B) The next step in servicing the loan; possible acceleration if the delinquency is not cured; and

(C) The borrower may appeal this determination in accordance with subpart B of part 1900 of this chapter.

(iv) *State Director's recommendation.* Upon completion of the determination of net recovery value and restructured debt in accordance with paragraph (c)(3)(ii) of this section, and prior to formal presentation to the borrower, the State Director will forward a recommendation to the National Office with the following documentation:

(A) That all other servicing efforts have been exhausted as required in paragraph (b) of this section.

(B) Financial statements including balance sheets, income and expense, and cash flows for the most recent actual year and projections for the next 3 years. The amount of FmHA's restructured debt and reserve account requirements are to be clearly indicated on the projected statements. Also, operating statistics including number of beds, patient days of care, outpatient visits, occupancy percentage, etc., for the same periods of time must be included;

(C) Copies of the operations review, developed for the particular loan, and appraisal;

(D) Calculations of the net recovery value;

(E) Debt restructuring calculations including a listing of the various servicing combinations used in these calculations as contained in paragraph (c)(3)(ii) of this section. For example:

(*1*) Interest rate reduced from 6.5 percent to 5 percent on all loans; and

(*2*) Extension of the terms from 25 to 30 years.

(F) Information concerning discussions with the borrower and their agreement or disagreement with the calculations and recommendations;

(G) If debt restructuring is proposed:

(*1*) A draft of Form FmHA 451–33, "Reamortization Request," if applicable, and any other necessary comments or requirements that may be required by the Office of the General Counsel and bond counsel in § 1951.223(c) (3) and (4) of subpart E of part 1951 of this chapter.

(*2*) A draft of Form FmHA 1956–1, if applicable, Complete only Parts I, II, VI, and VIII. Part VI, "Debtors Offer and Certification," will be in a separate attachment and contain the adjusted unpaid principal amount for which FmHA approval is requested. In part VI of the form, type "see attached." (H) If the proposed restructured debt will not cash flow or is less than the net recovery value, omit the items in paragraph (c)(3)(iv)(G) of this section.

(d) *National Office processing of State Director's request.* (1) After reviewing the recommendation to either debt restructure or liquidate for the net recovery value, the Administrator, after concurring, modifying, or not concurring in the recommendation, will return the submission for further processing.

(2) If a debt writedown is used in the restructuring process, the amount will be included in the National Office transmittal memorandum. The draft Form FmHA 1956–1 will not need to be finalized and returned to the Administrator for signature. The State Director's signature on the final copy will be sufficient. However, a copy of the National Office memorandum is to be attached to the Form when completed.

(e) *Borrower notification of debt restructuring and net recovery value calculations.* The State Director will provide a copy of the basis for the debt restructuring or net recovery determination to the borrower.

(1) If the value of the restructured loan is equal to, or greater than, the recovery value, the borrower will be made an offer to accept the restructured debt by using language similar to that provided in Guide 2 of this subpart (available in any FmHA Office) and including the following paragraphs:

(i) An introductory paragraph indicating that FmHA has concluded its consideration of the borrower's request;

(ii) A paragraph indicating FmHA's approval of the debt restructuring request and that acceptance must be received by FmHA within 45 days from receipt of this letter; and

(iii) That the borrower's acceptance will require the execution of a Shared Appreciation Agreement similar to Guide 4 of this subpart (available in any FmHA Office) and possible new debt instruments accompanied by bond counsel opinions.

(2) If the debt analysis calculations indicate that a restructured debt would be less than the net recovery value of the security, a letter using language similar to that provided in Guide 3 of this subpart (available in any FmHA Office), will be sent to the borrower that includes the following paragraphs:

(i) An introductory paragraph indicating that FmHA has concluded its consideration of the borrower's request;

(ii) Paragraphs indicating that:

(A) The borrower may pay FmHA the net recovery value of the loan. The borrower will be given 30 days from receipt of this letter to inform FmHA of its intent, 90 days to finalize the payoff, and will be notified that an election to pay off FmHA would require the execution of a Net Recovery Buy Out Recapture Agreement; or

(B) If the debt is not paid of at the net recovery value, FmHA will proceed to liquidate the loan.

(f) *Borrower responses to debt restructuring and net recovery value calculations.* Responses from the borrower will be handled as follows:

(1) *Acceptance of FmHA's restructured debt offer.* When a borrower accepts the offer for debt restructuring, processing will be in accordance with § 1951.223(c) of subpart E of part 1951 of this chapter using the adjusted unpaid principal and outstanding accrued interest at the Administrator's approved interest rate and terms. The borrower will be required to execute a Shared Appreciation Agreement which will provide that should the borrower sell or transfer title to the facility within the next 10 years, FmHA is entitled to a portion of any gain realized. This agreement will include language similar to that found in Guide 4 of this subpart (available in any FmHA Office). The original of Form FmHA 1956–1, with appropriate attachments signed by the

State Director, and a copy of the shared appreciation agreement will be sent to the Finance Office. Note: All documents pertaining to this transaction will be sent to the Finance Office in one single complete package; and

(2) *Acceptance by borrower to pay off loan at the recovery value.* Processing of this transaction will be in accordance with § 1956.124 of this subpart. However, the account does not need to be accelerated. The borrower will be required to execute a Net Recovery Buy Out Recapture Agreement, similar to that found in Guide 5 of this subpart (available in any FmHa Office). The original of Form FmHA 1956–1, with appropriate attachments signed by the State Director, and a copy of the recorded Net Recovery Buy Out Recapture Agreement will be sent to the Finance Office. The Executed Net Recovery Buy Out Recapture Agreement will be recorded in the county in which the facility is located. The Finance Office will credit the accounts of borrowers who entered into Net Recovery Buy Out Recapture Agreements with the amount paid by the borrower (net recovery value). Note: All documents pertaining to this transaction will be sent to the Finance Office in one single complete package.

(g) *Collection and processing of recapture.* (1) When FmHA becomes aware of the sale or transfer of title to the facility on which there is an effective Net Recovery Buy Out Recapture Agreement or a Shared Appreciation Agreement outstanding and a determination is made that a recapture is appropriate, FmHA will notify the borrower of the following:

(i) Date and amount of recapture due; and

(ii) FmHA action to be taken if borrower does not respond within the designated timeframe with the amount of recapture due.

(2) When the recapture is received, the payment will be processed on Form FmHA 451–2, "Schedule of Remittance," as a miscellaneous collection in accordance with Subpart B of Part 1951 of this chapter. The 451–2 along with a copy of the Net Recovery Buy Out Recapture Agreement or Shared Appreciation Agreement, as appropriate, will be forwarded to the Finance Office.

(3) When the amount of the recapture has been paid and credited to the borrower's account, the borrower will be released from liability by using Form FmHA 1965–8, "Release from Personal Liability," modified, as appropriate.

(h) *No recapture due.* If FmHA determines there is no recapture due, the Net Recovery Buy Out Recapture Agreement or Shared Appreciation Agreement will be appropriately annotated, the Recapture Agreement released from the record, and the agreement returned to the borrower.

Dated: November 2, 1992.

LaVerne Ausman

Administrator, Farmers Home Administration.

Dated: November 3, 1992.

Mary Ann Baron

Administrator, Rural Development Administration.

[FR Doc. 93–710 Filed 1–12–93; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 70, and 72

RIN 3150–AD85

Timeliness in Decommissioning of Materials Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to require timely decontamination and decommissioning by nuclear material licensees. These amendments would establish specific time periods for decommissioning unused portions of operating nuclear materials facilities and for decommissioning the entire site upon termination of operations. The NRC is also proposing to amend the regulations to require that licensees provide a description of the conditions of the site as part of the information to be submitted in support of decommissioning plans. The proposed rule is intended to reduce the potential risk to public health and the environment from radioactive material at such facilities after licensed activities have ceased.

DATES: Comment period expires March 29, 1993. Comments received after this date will be considered if it is practical to do so, but consideration can only be assured if comments are received on or before this date.

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

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

Copies of the regulatory analysis, the environmental assessment and finding of no significant environmental impact, the supporting statement submitted to OMB, and comments received may be examined at: the NRC Public Document Room at 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Paul J. Kovach, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3729.

SUPPLEMENTARY INFORMATION:

Background

Over the past several years, the Nuclear Regulatory Commission (NRC) has identified over 40 nuclear material sites that warrant special attention by the Commission. The sites have buildings, former waste disposal areas, large piles of tailings, ground water, and soil contaminated with low levels of uranium or thorium (source material) or other radionuclides. Consequently, they present varying degrees of radiological hazard, cleanup complexity, and cost. At some sites, licensees are financially and technically capable of completing cleanup in a reasonable timeframe, whereas at other sites, the licensee or responsible party is unable or unwilling to perform cleanup. In addition, the sites are currently in various stages of decommissioning. At some sites, licensees have initiated decommissioning, whereas at other sites, decommissioning has not yet been planned or initiated.

In 1990, the NRC implemented the Site Decommissioning Management Plan (SDMP) to identify and resolve issues associated with the timely cleanup of these sites. The SDMP does not include mere routine decommissioning cases. The SDMP has been effective in ensuring coordination and resolution of some of the policy and regulatory issues affecting site decommissioning. Progress on actual site remediation, however, continues to be slow. The limited progress to date prompted the Commission to direct the NRC staff to initiate actions to accelerate the cleanup of SDMP sites. The staff developed, and on April 3, 1992, the Commission approved, an Action Plan to describe NRC's case-by-case approach for accelerating remediation of sites listed in the SDMP.

These SDMP contaminated sites are symptomatic of the need for definitive NRC regulations which specify acceptable time periods for decommissioning nuclear material facilities when the licensed activities have ceased. If decommissioning is

delayed for long periods following cessation of operations, there is a risk that safety practices at the inactive facility or the inactive portion of the operating facility may become lax as key personnel relocate and management interest wanes. In addition, bankruptcy, corporate takeover, or other unforeseen changes in the company's financial status may complicate and perhaps further delay decommissioning.

The issuance of a rule to establish timeliness criteria for decommissioning nuclear materials licensee facilities would avoid future problems resulting from delayed actions on cleanup of contaminated inactive facilities, and minimize the difficulties associated with a case-by-case approach to requiring timely decontamination and decommissioning.

Discussion

The lack of definitive criteria as to when licensees shall commence and complete decommissioning their facilities has resulted in instances where the Commission has had to issue orders to establish schedules for timely decommissioning. Because timeliness in decommissioning is a generic issue, the Commission is proposing to amend its regulations to clearly delineate the licensee's responsibility for timely decommissioning. The proposed rule would provide the needed regulatory basis for compelling decommissioning in a timely manner. In addition, the proposed rule would place a limit on the time permitted to decontaminate and decommission and place the burden of proof directly on the licensee to demonstrate that a longer period of time is required for completing decommissioning.

In developing details of these proposed requirements, the NRC considered whether to impose them on all licensees, or to limit the requirements only to those licensees who, because of the size of their operations, had greater potential for needing significant cleanup before their sites could be fully decommissioned—i.e., those licensees covered by the financial assurance requirements for decommissioning in 10 CFR 30.35, 40.36, 70.25, and 72.30. Limiting the application of these requirements would affect fewer licensees (approximately 1,650 versus 24,000 NRC and Agreement State licensees), whereas applying the proposed rule to all licensees would have the advantage of ensuring that dormant areas with significant levels of contamination will be decommissioned, regardless of the size or extent of the licensee's operations. The Commission has determined that the provisions of the rule should extend to all 10 CFR Parts 30, 40, 70, and 72 licensees.

The proposed rule would establish specific requirements for: (1) Timely decommissioning of the entire site at the end of all licensed activity at the site, thereby allowing license termination and release of the site for unrestricted use (i.e., "end-of-license" decommissioning); and (2) timely decommissioning of separate buildings and outdoor areas where licensed activities have ceased while licensed activities continue to be conducted at other site locations (i.e., "end-of-use" decommissioning). Licenses would be amended to exclude decommissioned buildings or outdoor areas as authorized places of use following satisfactory completion of end-of-use decommissioning.

The proposed rule would define principal activities as those activities that are essential to achieving the purpose for which the license was issued or amended. Principal activities are commonly listed or described in the license under the Authorized Use heading. Principal activities are defined in the regulation to prevent licensees from avoiding end-of-use decommissioning requirements by using passive activities. For example, a licensee could not store licensed radioactive material in an otherwise unused building to avoid end-of-use decommissioning, unless storage was a principal activity for that building as a part of ongoing operations.

The proposed rulemaking clarifies the regulations to address license termination, expiration, revocation, denial of renewal, and their relationship to each other. In general, a license "expires" when: (1) The expiration date stated in the license is reached [unless the licensee has appropriately filed for renewal], (2) the Commission revokes the license, or (3) the Commission formally denies an application to renew the license. The current rules provide that a license continues in effect until a final Commission determination has been made on the renewal application. The current rules do not specifically address continued authority and responsibility with respect to materials possessed under the license until the license is terminated by the Commission. "Expiration" of a license, whether voluntary or involuntary, refers to the end of a licensee's authorization to perform licensed activities under the Atomic Energy Act of 1954, as amended, with the exception of a licensee's continuing authorization to perform licensed activities incident to and necessary for site decontamination and decommissioning. Licensees with expired licenses must then decommission pursuant to the time limits and other requirements stated in the regulations. The proposed rule would make clear that the decommissioning and timeliness criteria apply to all licensees for whom the authorization to perform licensed activities has expired, regardless of whether the expiration was voluntary or involuntary. When the Commission has determined that decommissioning has been completed in a satisfactory manner, the Commission will relieve the licensee of license obligations by terminating the license. All licenses remain in effect until formally terminated by the Commission.

The proposed rule would require licensees to submit notification of the existence of inactive buildings or outdoor areas but would not require them to provide notification of the existence of inactive parts of buildings, such as rooms or laboratories. To include parts of buildings in the regulation was seen as a cumbersome regulatory requirement both for licensees and the NRC without sufficient resultant benefit. In addition to notification, licensees would be required to initiate decommissioning or, within 12 months, submit a decommissioning plan for Commission approval. Decontamination or decommissioning of internal building areas is covered under the normal inspection and licensing process. If the cleanup involved routine procedures used by the licensee, they would be handled under the licensee's existing license or radiation safety program. If the cleanup involved procedures not employed routinely by the licensee, NRC could request additional information regarding the cleanup.

The time requirements for completing decommissioning consist of time periods both for initiating the decommissioning process and for subsequently completing decommissioning activities. In determining the appropriate time requirement for initiating decommissioning, the NRC staff considered the health safety benefits to be obtained by allowing short-lived isotapes to decay before beginning decommissioning operations, and also the licensee's need to make business decisions concerning future use of inactive buildings or outdoor areas. In determining the appropriate time requirements for the completion of subsequent decommissioning activities, the NRC staff considered the time needed to plan and safely carry out

decommissioning operations based on previous experience.

With regard to initiation of the decommissioning process, the background information developed for the rulemaking on general requirements for decommissioning (53 FR 24018; June 27, 1988) included an evaluation of decommissioning planning and preparation requirements for the wide variety of different sized operations licensed under 10 CFR parts 30, 40, and 70. That evaluation indicated that, in general for materials license facilities, further benefits derived from radiological decay are not likely to be gained by delaying decommissioning beyond approximately 3 years from the date that operations cease. With respect to making business decisions on further use of inactive facilities, the Commission considers a period of approximately 24 months to be reasonable. This would permit licensees sufficient time to make decisions concerning future use of an inactive facility, while accommodating periods of inactivity due to normal operations, testing, or routine business cycles.

Based on the 24-month time period considered reasonable for making business decisions, and considering that the incremental benefits due to radioactive decay between the second and third years of inactivity are small, the Commission considers a period of approximately 24 months to be a reasonable time period to permit a building or outdoor area to remain inactive without undergoing decommissioning. Therefore, the proposed rule would stipulate that licensees must notify NRC if they have buildings or outdoor areas where no principal activities have been conducted for 24 months. Notification would also be required when the license has expired or when the licensee has decided to permanently cease principal activities and begin the formal process leading to license termination. The proposed rule would allow licensees 60 days to provide notification. The proposed rule would require licensees not required to submit decommissioning plans to begin decommissioning within the 60-day period provided for notification unless the Commission has granted a delay or postponement. Licensees required to submit decommissioning plans would be required to submit final decommissioning plans within 12 months following notification to cease principal activities. The timetables for required decommissioning activities are discussed below.

The Commission recognizes that licensees may not wish to decommission the site or separate buildings or outdoor areas when submitting the notification described above; thus, the rule would permit licensees to make a request and justify delay or postponement. Licensees would be required to submit the request with justification 30 days prior to the time notification would have been required as described above. In practical terms, this would mean: (1) 30 days prior to the license expiration date, or (2) 30 days following the decision to permanently cease principal activities at the site or in separate buildings or outdoor areas, or (3) 30 days following the end of the 24-month time period of inactivity for the site or in separate buildings or outdoor areas.

With regard to subsequent completion of decommissioning activities, licensees who are not required by license condition or existing regulatory requirements to submit a decommissioning plan would be permitted a maximum of 18 months to complete decommissioning. Licensees who are required to submit a decommissioning plan would be permitted 12 months to prepare and submit the plan and a maximum of 18 months to complete decommissioning following NRC approval of the plan.

The proposed regulations will permit licensees to request the Commission to consider extending the 18-month time limit for decommissioning. The Commission will consider site-specific factors on a case-by-case basis. Factors that the Commission may consider to be appropriate include: (1) Availability of waste disposal facilities, (2) Reductions in dose or waste volume due to radioactive decay, (3) Technical feasibility of decommissioning, (4) Regulatory requirements of other government agencies, (5) Lawsuits, (6) Ground-water treatment activities, (7) Monitored natural ground-water restoration, or (8) Other factors that could result in more environmental harm than deferred clean-up or that are beyond the control of the licensee.

Based on the time periods discussed above, the NRC estimates that licensees who are not required to submit decommissioning plans should complete their decommissioning activities in approximately 44 months or less after cessation of operations (i.e., 24 months of inactivity, 60 days for notification, and 18 months to complete decommissioning). Licensees who are required to submit decommissioning plans would be expected to complete their decommissioning activities in approximately 56 months or less (i.e., 24 months of inactivity, 60 days for notification, 12 months to submit a decommissioning plan, and 18 months to complete decommissioning). Commission review and approval of decommissioning plans (estimated to be 6 months or less) would be in addition to the 56-month total.

Uranium recovery licensees consist of conventional mills, commercial and research and development in-situ facilities, ore buying stations, and heap-leach facilities. These sites may contain processing facilities and waste disposal areas. The sites, other than the waste disposal areas, will be decommissioned and released for unrestricted use. The waste disposal areas are reclaimed and, when the specific license is terminated, licensed for long-term care under the general license in § 40.28.

The current requirements for decommissioning and reclamation of these sites are contained in appendix A to 10 CFR part 40. In particular, criterion 9 of Appendix A requires that there must be a Commission-approved plan for:

(1) Decontamination and decommissioning of mill buildings and the milling site to levels which allow unrestricted use of these areas upon decommissioning, and

(2) The reclamation of tailings and waste disposal areas in accordance with technical criteria presented in section I of appendix A.

The effect of the proposed rule would be to require the uranium recovery licensees to notify the Commission within 60 days when they have permanently ceased operations or have not conducted operations for 24 months (§ 40.42(d)) and to submit a decommissioning plan within 12 months of this notification or license expiration. The provisions in the proposed § 40.42(g) on the content of a decommissioning plan are consistent with the intent of the decommissioning plan required in Criterion 9 of appendix A to 10 CFR part 40. Some uranium recovery licensees may require additional time to conduct final decommissioning and site survey in order to support the reclamation of waste disposal areas.

Because waste disposal areas are not released for unrestricted use and criterion 9 of appendix A to 10 CFR Part 40 and subpart T of 40 CFR part 61 specifically require the submittal and approval of a timely reclamation plan, the provisions in the proposed rule in § 40.42(f) for the content of a plan and § 40.42(g) for the timing of completion of the plan do not apply to the reclamation plan for the waste disposal areas at uranium recovery facilities. Section 40.42(k) presents the exemption

for the waste disposal areas at uranium recovery facilities.

To coordinate decommissioning of uranium recovery facilities and reclamation of disposal areas, the Commission may need to extend the date for completion of the decommissioning plan and final radiological survey until the reclamation of the disposal area has been completed. Typically, the reclamation of a disposal area may require several years of drying, several construction seasons, and a period of stability monitoring prior to the licensee proposing to terminate the license. Requests for delay in completion of the final aspects of the decommissioning plan can be accommodated through the provisions in proposed § 40.42(h).

The Commission recognizes the fluctuation that has occurred in the uranium industry. The proposed regulation would allow the Commission to extend the 24-month period of inactivity if the Commission determined, based on a request by the licensee, that this relief is not detrimental to the public health and safety and is otherwise in the public interest.

This proposed rule would also clarify requirements for radiological surveys performed as part of the license termination process. This proposed rule would clarify that licensees need only submit the final survey showing that the site or area is suitable for release for unrestricted use after decommissioning has been completed. The Commission has recognized that existing requirements may be construed to require two surveys. However, the Commission must be aware of the conditions of the site in order to adequately review and approve a decommissioning plan. Therefore, a new item has been added to the content of a proposed decommissioning plan which requires a description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan. This may be a preliminary radiation survey or other types of documentation which characterize the conditions of the site.

The existing regulations (72.42(b)) require that applications for renewal of ISFSI and MRS licenses be filed at least 2 years prior to expiration of the existing license. This rulemaking would require licensees to notify the Commission (at least 2 years prior to license expiration) if an application for renewal will not be filed. The notification requirement, coupled with the 12-month time period for preparation of the final decommissioning plan, is equivalent to the current requirement in § 72.54(a) for submittal of a plan 1 year before expiration of the license. The requirement also has the effect of clearly documenting the licensee's decision on the future of the site 2 years before license termination.

This proposed rule would implement the Commission's directive on metrication that was established on October 7, 1992 (57 FR 46202). Reports of radiation exposure and exposure rates, dose and dose rates are now given using SI units, with special units in parentheses.

This proposed rule does not define radiological criteria for release for unrestricted use. The NRC intends to establish these levels in an enhanced participatory rulemaking that will be noticed in the **Federal Register**. Pending promulgation of the new radiological criteria, licensees are expected to comply with current criteria and practices as described in the NRC Action Plan Ensuring Timely Decommissioning of SDMP Sites (57 FR 13389; April 16, 1992). Further information on acceptable criteria may be obtained through the NRC regional or headquarters offices.

In keeping with the Commission's April 11, 1991, directive to the NRC staff concerning cooperation with the Agreement States, the NRC staff discussed its plans for this rulemaking with the Agreement States. The discussion was held at two open meetings in Wichita, Kansas, on May 14, 1991. These meetings were held to provide information and discussion in conjunction with the annual meeting of the Conference of Radiation Control Program Directors, Inc. During the meetings, the questions and comments that were raised focused upon the following:

(1) What licensee types should be covered and whether all facilities should be covered or only those with significant (but unspecified levels at that time) contamination;

(2) The time period that should be allowed for decommissioning and the options for extending the time period; and

(3) Other procedural questions such as the need for a residual radioactivity rule, related guidance on timeliness, enforcement, etc.

The staff has considered the comments made at the meetings. The content of the proposed rule and the Discussion section of this Supplementary Information address the concerns raised at the meetings.

The NRC recommends that the rule be made a Division 2 matter of compatibility. Under this level of compatibility, the Agreement States would be expected to adopt a timeliness in decommissioning rule but would be permitted flexibility to apply more stringent requirements if deemed appropriate by the State.

Although a total of about 24,000 licensees (including both NRC and approximately 16,000 Agreement State licensees) would be affected by this rulemaking, minimal impact is expected upon the 19,700 NRC or Agreement State licensees using only sealed sources or sources with short half-lived material.

Enforcement

The Commission intends to modify Enforcement Policy in 10 CFR part 2, appendix C, supplement 6, such that failure to provide notification or decommission facilities in accordance with this proposed rule would be considered a severity level 3 violation. This may subject licensees to civil penalties, including daily civil penalties, for such violations.

Request for Comment

Comments are invited on the proposed regulatory text in 10 CFR 30.36. The paragraphs in the existing regulations that would be revised to establish these criteria and timetables are found in §§ 30.36(a)–(e), and 30.37(a); the sections in the proposed rule being added to establish these criteria and timetables are 30.36 (g), (h), (i), and (j). Sections 30.36(d) and 30.37(b) have been deleted. A definition of principal activities has been added to § 30.4.

The text in the existing regulation in §§ 30.36 (c)(2)(i)(A)–(D), (c)(2)(iii)(A), (c)(2)(iii)(C), (c)(2)(iii)(D), and 30.36(f)(1)–(3) is unchanged (although renumbered). The text of these paragraphs is included as part of the codified text for clarity, completeness of presentation, and ease of amendment. However, comments are not requested on the provisions of these paragraphs nor will such comments be considered as part of this proposed rulemaking.

Similar amendments are being made to § 40.42, § 70.38 and 72.42. Specifically, comments are invited on the proposed regulatory text for these parts. The paragraphs in the existing regulations that would be revised to establish these criteria and timetables are §§ 40.42(a)–(e), and 40.43(a). The section being added to establish these criteria and timetables are 40.42 (g), (h), (i), (j), and (k). Sections 40.42(d) and 40.43(b) have been deleted. A definition of principal activities has been added to § 40.4.

The text in §§ 40.42(c)(2)(i)(A)–(D); (c)(2)(iii)(A), (c)(2)(iii)(C), (c)(2)(iii)(D), and 40.42(f)(1)–(3) is unchanged (although renumbered). The text of these paragraphs is included as part of the codified text for clarity, completeness of presentation, and ease of amendment. However, comments are not requested on the provisions of these paragraphs nor will such comments be considered as part of this proposed rulemaking.

Similarly, with regard to a § 70.38, comments are invited on the amended regulatory text. The paragraphs that would be revised to establish these criteria and timetables are found in §§ 70.38 (a)–(e) and (f)(5). The sections being added to establish these criteria and timetables are 70.38(g), (h), (i), and (j). Sections 70.33(b) and 70.38(d) have been deleted. A definition of principal activities has been added to § 70.4.

The text in §§ 70.38(c)(2)(i)(A)–(D), 70.38(c)(iii)(A), (c)(iii)(C)–(E), and 70.38(f)(1)–(3) is unchanged (although renumbered). The text of these paragraphs is included as part of the codified text for clarity, completeness of presentation, and ease of amendment. However, comments are not requested on the provisions of these paragraphs nor will such comments be considered as part of this proposed rulemaking.

Similarly, with regard to part 72, comments are invited on the amended regulatory text which establishes criteria and timetables for decommissioning of independent storage and high level waste facilities. The paragraphs that would be revised to establish these criteria and timetables are found in § 72.54(a)–(c). The sections being added to establish these criteria and timetables are 72.54(f)(1), (f)(2) and 72.54(h)–(i). The definition of principal activities would be added to § 72.3. The text in § 72.54(b)(2)–(c) is unchanged (although renumbered). The text of these paragraphs is included as part of the codified text for clarity, completeness of presentation, and ease of amendment. However, comments are not requested on the provisions of these paragraphs nor will such comments be considered as part of this proposed rulemaking.

With regard to the timetable established 10 CFR 30.36(b), 40.42(b), 70.38(b) and 72.54(a) for providing NRC with notification that facilities have been inactive for 24 months, as well as the requirement that justifications for delaying or postponing initiation of the decommissioning process be filed 23 months after cessation of operations, the Commission specifically requests comments as to whether these time periods provide an adequate balancing of reduction in exposure levels due to decay and the time needed to make business decisions regarding inactive buildings or outdoor areas as a licensee's site.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The proposed action would establish specific requirements for timely decommissioning of nuclear materials facilities. The proposed action is directed to improving the regulatory, licensing, inspection, and enforcement framework relating to these facilities and does not change the underlying fundamental requirement to decommission facilities to levels acceptable for unrestricted use. Thus, this proposed action will not adversely affect the quality of the human environment. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. Single copies may be obtained from: Mr. P.J. Kovach, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3729.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paper Reduction Act of 1980 (44 U.S.C. 3501 et seq.) This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements

The public reporting burden for this collection of information is estimated to average 1 hour per response, including the 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 the Information and Records Management Branch (MNBB–7714), U.S. Nuclear Regulatory Commission, Washington, DC, 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–3019 (3150–0009, 3150–0017, 315–0020, 3150–0028, and 3150–0132), Office of Management and Budget, Washington, DC, 20503.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The draft regulatory analysis is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the draft analysis may be obtained from Mr P. J. Kovach, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: (301) 492–3729.

The NRC requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed rule would impose requirements for timely decommissioning of a site. Although the proposed rule would include all 24,000 licenses regulated by the NRC and the Agreement States, decommissioning efforts for licensees that possess and use only materials with short half-lives or materials only in sealed sources are simple and require only that enough time be permitted to either allow short-lived materials to decay or to enable them to properly dispose of their sealed sources. Therefore, the impact of the rule on these licenses should not be significant. The net cost to the remaining licensees, estimated to number 4300, is expected to be small based on an analysis of the costs of decommissioning, including waste disposal. The analysis indicates that in nearly all cases, the cost of decommissioning (which includes the costs of waste disposal) would increase if decommissioning is delayed. Completed details of the cost analysis are contained in Section 6.2 of the Regulatory Analysis which can be obtained in the manner noted above. At realistic discount rates, for less than 50 licensees the calculated costs of delaying decommissioning may be lower than for decommissioning in a timely manner. However, these licensees are not likely to be small entities and, in addition, there actually may be significant costs of cleanup of

secondary contamination if decommissioning is delayed.

Although the above discussion indicates that there is a not a significant impact on a substantial number of small entities, the NRC is seeking comments and suggested modifications because of the widely differing conditions under which materials licensees operate.

Any entity subject to this regulation which determines that, because of its size, it is likely to bear a disproportionate adverse economic impact should notify the Commission of this in a comment that indicates the following:

(1) The licensee's size and how the proposed regulation would result in a significant economic burden upon the licensee as compared to the economic burden on a larger licensee.

(2) How the proposed regulations could be modified to take into account the licensee's differing needs or capabilities.

(3) The benefits that would accrue, or the detriments that would be avoided, if the proposed regulations were modified as suggested by the licensee.

(4) How the proposed regulation, as modified, would more closely equalize the impact of NRC regulations or create more equal access to the benefits of Federal programs as opposed to providing special advantages to any individual or group.

(5) How the proposed regulation, as modified, would still adequately protect public health and safety.

Backfit Analysis

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

List of Subjects

10 CFR Part 30

Byproduct material, Criminal penalty, Government contracts, Intergovernmental relations, Isotopes, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 40

Criminal penalty, Government contracts, Hazardous materials—transportation, Nuclear materials, Reporting and recordkeeping requirements, Source material, and Uranium.

10 CFR Part 70

Criminal penalty, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 72

Independent storage of spent fuel and high level waste, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, and Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 30, 40, 70, and 72.

PART 30—RULES OF GENERAL APPLICABILITY TO DOMESTIC LICENSING OF BYPRODUCT MATERIAL

1. The authority citation for part 30 is revised to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended; sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 30.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 30.34(b) also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 30.61 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

2. In § 30.4 a definition of the term *principal activities* is added in alphabetical order to read as follows:

§ 30.4 Definitions.

* * * * *

Principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended, excluding storage during which no licensed material is accessed for use or disposal and excluding activities incidental to decontamination or decommissioning

* * * * *

3. Section 30.36 is revised to read as follows:

§ 30.36 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date stated in the license except when a licensee has filed an application for renewal pursuant to § 30.37 not less than 30 days prior to the expiration date stated in the existing license. When an application for renewal has been filed at least 30 days prior to the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual byproduct material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving byproduct material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 30.6, each licensee shall provide notification to the Commission in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, such that the building or outdoor area is unsuitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by paragraph (f)(1) of this section, and begin decommissioning upon approval of that plan if—

(1) The license has expired pursuant to paragraph (a) or (b) of this section; or

(2) The licensee has decided to permanently cease *principal activities*, as defined in this part, at the entire site or in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use; or

(3) No *principal activities* under the license have been conducted for a period of 24 months; or

(4) No *principal activities* have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use.

(e) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest. Such requests shall be submitted no later than 30 days prior to notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section shall not commence until the Commission has made a determination on the request.

(f)(1) A decommissioning plan shall be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Commission and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section, if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) Procedures such as those listed in paragraph (f)(1) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(vi) For decommissioning plans calling for completion of decommissioning later than 18 months after plan approval, the plan shall include a justification for the delay based on the criteria in paragraph (h) of this section.

(5) The proposed decommissioning plan will be approved by the Commission if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(g)(1) Except as provided in paragraph (h) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 18 months following initiation of decommissioning.

(2) Except as provided in paragraph (h) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 18 months following initiation of decommissioning.

(h) The Commission may approve a request for an alternative schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative is warranted by consideration of the following:

(1) Whether it is technically feasible to complete decommissioning within the allotted 18-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 18-month period;

(3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(i) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate—

(i) Report levels of radiation in units of micro gray (microrads) per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of mega becquerels (disintegrations per minute of microcuries) per 100 square centimeters removable and fixed for surfaces, mega becquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(j) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that:

(1) Byproduct material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

4. Section 30.37 is revised to read as follows:

§ 30.37 Application for renewal of licenses.

(a) Application for renewal of a specific license shall be filed on NRC Form 314 and in accordance with § 30.32.

(b) (Reserved).

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

5. The authority citation for part 40 is revised to read as follows:

Authority: Secs. 62, 63, 64, 65, 81, 161, 182, 183, 186, 68 Stat. 932, 933, 935, 948, 953, 954, 955, as amended, secs. 11e(2), 83, 84, Pub. L. 95–604, 92 Stat. 3033, as amended, 3039, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2014(e)(2), 2092, 2093, 2094, 2095, 2111, 2113, 2114, 2201, 2232, 2233, 2236, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688 (42 U.S.C. 2021); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); sec. 275, 92 Stat. 3021, as amended by Pub. L. 97–415, 96 Stat. 2067 (42 U.S.C. 2022).

Section 40.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 40.31(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 40.71 also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

6. In § 40.4 a definition of the term *principal activities* is added in alphabetical order to read as follows:

§ 40.4 Definitions.

* * * * *

Principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended, excluding storage during which no licensed material is accessed for use or disposal and excluding activities incidental to decontamination or decommissioning.

* * * * *

7. Section 40.42 is revised to read as follows:

§ 40.42 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date stated in the license except when a licensee has filed an application for renewal pursuant to § 40.43 not less than 30 days prior to expiration of the existing license. When an application for renewal has been filed, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(b) Each specific license revoked by the Commission expires at the end of the day of the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual source material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving source material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 40.5, each licensee shall provide notification to the Commission in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, such that the building or outdoor area is unsuitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by paragraph (f)(1) of this section, and begin decommissioning upon approval of that plan if—

(1) The license has expired pursuant to paragraph (a) or (b) of this section; or

(2) The licensee has decided to permanently cease *principal activities*, as defined in this part, at the entire site or in any separate building or outdoor area; or

(3) No *principal activities* under the license have been conducted for a period of 24 months; or

(4) No *principal activities* have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use.

(e) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest. Such requests shall be submitted no later than 30 days prior to notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section shall not commence until the Commission has made a determination on the request.

(f)(1) A decommissioning plan shall be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Commission and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section, if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) Procedures such as those listed in paragraph (f)(1) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include:

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(vi) For decommissioning plans calling for completion of decommissioning later than 18 months after plan approval, a justification for the delay based on the criteria in paragraph (h) of this section.

(5) The proposed decommissioning plan will be approved by the Commission if the information therein demonstrates that the decommissioning will be completed as soon as practicable and that the health and safety of workers and the public will be adequately protected.

(g)(1) Except as provided in paragraph (h) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 18 months following initiation of decommissioning.

(2) Except as provided in paragraph (h) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 18 months following initiation of decommissioning.

(h) The Commission may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative is warranted by consideration of the following:

(1) Whether it is technically feasible to complete decommissioning within the allotted 18-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 18-month period;

(3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as the regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(i) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate—

(i) Report levels of radiation in units of micro gray (microrads) per hour of beta and gamma radiation at on centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of megal becquerels (disintegrations per minute or microcuries) per 100 square centimeters removable and fixed for surfaces, mega becquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(j) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that:

(1) Source material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

(k) Specific licenses for uranium milling are exempt from the content requirements in paragraph (f) of this section and the timing of completion requirement in paragraph (g) of this section for the reclamation plans submitted under criterion 9 of appendix A to this part.

8. Section 40.43 is revised to read as follows:

§ 40.43 Renewal of Licenses.

(a) Application for renewal of a specific license shall be filed on NRC Form 313 and in accordance with § 40.31 of this part.

(b) [Reserved].

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

9. The authority citation for part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); secs. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Sections 70.1(c) and 70.20a(b) also issued under secs. 135, 141, Pub. L. 96–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93–377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

10. In § 70.4 a definition of the term *principal activities is* added in alphabetical order to read as follows:

§ 70.4 Definitions.

* * * * *

Principal activities means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended, excluding storage during which no licensed material is accessed for use or disposal and excluding activities incidental to decontamination or decommissioning.

* * * * *

§ 70.33 [Amended]

11. Section 70.33 is amended by removing and reserving paragraph (b).

12. Section 70.38 is revised to read as follows:

§ 70.38 Expiration and termination of licenses and decommissioning of sites and seperate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date stated in the license except when a licensee has filed an application for renewal pursuant to § 70.33 not less than 30 days prior to expiration of the existing license. When an application for renewal has been filed, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date stated in the determination.

(b) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license, or on the expiration date stated in the determination, or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of residual special nuclear material present as contamination until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving special nuclear material to those related to decommissioning; and

(2) Continue to control entry to restricted areas until they are suitable

for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

(d) Within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 70.5, each licensee shall provide notification to the Commission in writing and either begin decommissioning its site, or any separate building or outdoor area that contains residual radioactivity, such that the building or outdoor area is unsuitable for release for unrestricted use, or submit within 12 months of notification a decommissioning plan, if required by paragraph (f)(1) of this section, and begin decommissioning upon approval of that plan if:

(1) The license has expired pursuant to paragraph (a) or (b) of this section; or

(2) The licensee has decided to permanently cease *principal activities*, as defined in this part, at the entire site or in any separate building or outdoor area; or

(3) No *principal activities* under the license have been conducted for a period of 24 months; or

(4) No *principal activities* have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use.

(e) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest. Such requests shall be submitted no later than 30 days prior to notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section shall not commence until the Commission has made a determination on the request.

(f)(1) A decommissioning plan shall be submitted if required by license condition or if the procedures and activities necessary to carry out decommissioning of the site or separate building or outdoor area have not been previously approved by the Commission and these procedures could increase potential health and safety impacts to workers or to the public, such as in any of the following cases:

(i) Procedures would involve techniques not applied routinely during cleanup or maintenance operations;

(ii) Workers would be entering areas not normally occupied where surface contamination and radiation levels are significantly higher than routinely encountered during operation;

(iii) Procedures could result in significantly greater airborne concentrations of radioactive materials than are present during operation; or

(iv) Procedures could result in significantly greater releases of radioactive material to the environment than those associated with operation.

(2) The Commission may approve an alternate schedule for submittal of a decommissioning plan required pursuant to paragraph (d) of this section, if the Commission determines that the alternative schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety and is otherwise in the public interest.

(3) Procedures such as those listed in paragraph (f)(1) of this section with potential health and safety impacts may not be carried out prior to approval of the decommissioning plan.

(4) The proposed decommissioning plan for the site or separate building or outdoor area must include—

(i) A description of the conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(ii) A description of planned decommissioning activities;

(iii) A description of methods used to ensure protection of workers and the environment against radiation hazards during decommissioning;

(iv) A description of the planned final radiation survey; and

(v) An updated detailed cost estimate for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning.

(vi) A description of the physical security plan and material control and accounting plan provisions in place during decommissioning.

(vii) For decommissioning plans calling for completion of decommissioning later than 18 months after plan approval, a justification for the delay based on the criteria in paragraph (h) of this section.

(5) The proposed decommissioning plan will be approved by the Commission if the information therein demonstrates that the decommissioning will be completed as soon as practical and that the health and safety of workers and the public will be adequately protected.

(g)(1) Except as provided in paragraph (h) of this section, licensees shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 18 months following initiation of decommissioning.

(2) Except as provided in paragraph (h) of this section, when decommissioning involves the entire site, the licensee shall request license termination as soon as practicable but no later than 18 months following initiation of decommissioning.

(h) The Commission may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative is warranted by consideration of the following:

(1) Whether it is technically feasible to complete decommissioning within the allotted 18-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 18-month period;

(3) Whether a significant volume reduction in wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(i) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a radiation survey of the premises where the licensed activities were carried out and submit a report of the results of this survey, unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate—

(i) Report levels of radiation in units of micro gray (microrads) per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of mega becquerels (disintegrations per minute or microcuries) per 100 square centimeters removable and fixed for surfaces, mega becquerels (microcuries) per milliliter for water, and becquerels

(picocuries) per gram for solids such as soils or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(j) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that:

(1) Special nuclear material has been properly disposed;

(2) Reasonable effort has been made to eliminate residual radioactive contamination, if present; and

(3)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or

(ii) Other information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

13. The authority citation for part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102 Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and Sec. 218(a) 96 Stat. 2252 (42 U.S.C. 10198).

14. In § 72.3, a definition of the term *principal activities* is added in alphabetical order to read as follows:

§ 72.3 Definitions.

* * * * *

Principal activities, as used in this part, means activities authorized by the license which are essential to achieving the purpose(s) for which the license was issued or amended, excluding activities incidental to decontamination or decommissioning.

* * * * *

15. In § 72.42, a new paragraph (d) is added to read as follows:

§ 72.42 Duration of license; renewal.

* * * * *

(d) Each licensee shall notify the Commission in writing at least 2 years prior to expiration of its existing license if an application for renewal will not be filed pursuant to this section.

16. Section 72.54 is revised to read as follows:

§ 72.54 Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas.

(a) Each specific license expires at the end of the day on the expiration date stated in the license except when a licensee has filed an application for renewal pursuant to § 72.42 not less than 24 months prior to expiration of the existing license. When an application for renewal has been filed at least 24 months prior to the expiration date stated in the existing license, the existing license expires at the end of the day on which the Commission makes a final determination to deny the renewal application or, if the determination states an expiration date, the expiration date stated in the determination.

(B) Each specific license revoked by the Commission expires at the end of the day on the date of the Commission's final determination to revoke the license or on the expiration date stated in the determination or as otherwise provided by Commission Order.

(c) Each specific license continues in effect, beyond the expiration date if necessary, with respect to possession of licensed material present as residual radioactivity until the Commission notifies the licensee in writing that the license is terminated. During this time, the licensee shall—

(1) Limit actions involving spent fuel or other licensed material to those related to decommissioning and

(2) Continue to control entry to restricted areas until they are suitable for release for unrestricted use and the Commission notifies the licensee in writing that the license is terminated.

(d) As required by § 72.42(d), or within 60 days of the occurrence of any of the following, consistent with the administrative directions in § 72.4, each licensee shall notify the Commission in writing, and submit within 12 months of notification, a final decommissioning plan and begin decommissioning upon approval of the plan if—

(1) The licensee has decided to permanently cease *principal activities*, as defined in this part, at the entire site or any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use; or

(2) No *principal activities* under the license have been conducted for a period of 24 months; or

(3) No *principal activities* have been conducted for a period of 24 months in any separate building or outdoor area that contains residual radioactivity such that the building or outdoor area is unsuitable for release for unrestricted use.

(e)(1) The Commission may grant a request to delay or postpone initiation of the decommissioning process if the Commission determines that such relief is not detrimental to the public health and safety and is otherwise in the public interest. Such requests shall be submitted no later than 30 days prior to notification pursuant to paragraph (d) of this section. The schedule for decommissioning set forth in paragraph (d) of this section shall not commence until the Commission has made a determination on the request.

(2) The Commission may approve an alternate schedule for submittal of the final decommissioning plan required pursuant to paragraph (d) of this section of the Commission determines that the alternate schedule is necessary to the effective conduct of decommissioning operations and presents no undue risk from radiation to the public health and safety, and is otherwise to the public interest.

(f) The proposed final decommissioning plan must include—

(1) A description of the current conditions of the site or separate building or outdoor area sufficient to evaluate the acceptability of the plan;

(2) The choice of the alternative for decommissioning with a description of the activities involved;

(3) A description of controls and limits on procedures and equipment to protect occupational and public health and safety;

(4) A description of the planned final radiation survey; and

(5) An updated detailed cost estimate for the chosen alternative for decommissioning, comparison of that estimate with present funds set aside for decommissioning, and plan for assuring the availability of adequate funds for completion of decommissioning including means for adjusting cost estimates and associated funding levels

over any storage or surveillance period; and

(6) A description of technical specifications and quality assurance provisions in place during decommissioning.

(g) For final decommissioning plans in which the major dismantlement activities are delayed by first placing the ISFSI or MRS in storage, planning for these delayed activities may be less detailed. Updated detailed plans must be submitted and approved prior to the start of such activities.

(h) If the final decommissioning plan demonstrates that the decommissioning will be completed as soon as practicable, performed in accordance with the regulations in this chapter, and will not be inimical to the common defense and security or to the health and safety of the public, and after notice to interested persons, the Commission will approve the plan subject to such conditions and limitations as it deems appropriate and necessary and issue an order authorizing decommissioning.

(i)(1) Except as providing in paragraph (j) of this section, each licensee shall complete decommissioning of the site or separate building or outdoor area as soon as practicable but no later than 18 months following approval of the final decommissioning plan by the Commission.

(2) Except as provided in paragraph (j) of this section, when decommissioning involves the entire site, each licensee shall request license termination as soon as practicable but no later than 18 months following approval of the final decommissioning plan by the Commission.

(j) The Commission may approve a request for an alternate schedule for completion of decommissioning of the site or separate building or outdoor area, and license termination if appropriate, if the Commission determines that the alternative schedule is warranted by consideration of the following:

(1) Whether it is technically feasible to complete decommissioning within the allotted 18-month period;

(2) Whether sufficient waste disposal capacity is available to allow completion of decommissioning within the allotted 18-month period;

(3) Whether a significant volume reduction is wastes requiring disposal will be achieved by allowing short-lived radionuclides to decay;

(4) Whether a significant reduction in radiation exposure to workers can be achieved by allowing short-lived radionuclides to decay; and

(5) Other site-specific factors which the Commission may consider appropriate on a case-by-case basis, such as regulatory requirements of other government agencies, lawsuits, ground-water treatment activities, monitored natural ground-water restoration, actions that could result in more environmental harm than deferred cleanup, and other factors beyond the control of the licensee.

(k) As the final step in decommissioning, the licensee shall—

(1) Certify the disposition of all licensed material, including accumulated wastes, by submitting a completed NRC Form 314 or equivalent information; and

(2) Conduct a final radiation survey of the premises where the licensed activities were conducted and submit a report of the results of this survey, unless the licensee demonstrates that the premises are suitable for release for unrestricted use in some other manner. The licensee shall, as appropriate—

(i) Report levels of radiation in units of micro gray (microrads) per hour of beta and gamma radiation at one centimeter and gamma radiation at one meter from surfaces, and report levels of radioactivity, including alpha, in units of mega becquerels (disintegrations per minute or microcuries) per 100 square centimeters removable and fixed for surfaces, mega becquerels (microcuries) per milliliter for water, and becquerels (picocuries) per gram for solids such as solid or concrete; and

(ii) Specify the survey instrument(s) used and certify that each instrument is properly calibrated and tested.

(l) Specific licenses, including expired licenses, will be terminated by written notice to the licensee when the Commission determines that—

(1) The decommissioning has been performed in accordance with the approved final decommissioning plan and the order authorizing decommissioning; and

(2)(i) A radiation survey has been performed which demonstrates that the premises are suitable for release for unrestricted use; or

(ii) Other than information submitted by the licensee is sufficient to demonstrate that the premises are suitable for release for unrestricted use.

17. In § 72.86, paragraph (b), is revised to read as follows:

§ 72.86 Criminal penalties.

* * * * *

(b) The regulations in part 72 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 72.1, 72.2, 72.3, 72.4, 72.5, 72.7, 72.8, 72.9, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.32, 72.34, 72.40, 72.46, 72.56, 72.58, 72.60, 72.62, 72.84, 72.86, 72.90, 72.96, 72.108, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.182, 72.194, 72.200, 72.202, 72.204, 72.206, 72.210, 72.214, 72.220, 72.230, 72.236, 72.238, and 72.240.

Dated at Rockville, Maryland, this 7th day of January, 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–745 Filed 1-12-93; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL ELECTION COMMISSION

11 CFR Part 104

[Notice 1993–2]

Recordkeeping and Reporting by Political Committees; Best Efforts

AGENCY: Federal Election Commission.

ACTION: Notice of public hearing.

SUMMARY: The Federal Election Commission is considering holding a public hearing on proposed revisions to its regulations which require that treasurers of political committees exercise best efforts to obtain, maintain and report the complete identification of each contributor whose contributions exceed $200 per calendar year. Further information is provided in the supplementary information which follows.

DATES: The Commission is considering holding a hearing on March 24, 1993 at 10 a.m. if a sufficient number of persons are interested in testifying. Requests to testify must be received on or before February 26, 1993. Persons requesting to testify must also submit written comments by February 26, 1993, if they have not previously filed written comments on the proposed rules.

ADDRESSES: Requests to testify, and any accompanying comments, must be made in writing and addressed to: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463. Commission hearings are held in the Commission's ninth floor meeting room, 999 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: On September 24, 1992 (57 FR 44137) the Commission published a Notice of Proposed Rulemaking regarding possible changes to 11 CFR 104.7(b). This regulation explains the actions necessary to meet the treasurer's statutory obligation to exercise best

efforts to obtain and report the name, address, occupation and employer of all contributors who give over $200 to the political committee in a calendar year, together with the date and amount of such contributions. *See* 2 U.S.C. 434(b)(3)(A). The proposed rules would require political committees to make separate and distinct requests for the necessary information when they receive solicited or unsolicited contributions that do not contain the information needed. The proposed changes would also require treasurers to report information which is known to them, but which was not specifically provided by the contributors. The proposals would also clarify the existing requirement to amend reports upon receipt of additional contributor information.

A number of comments were received in response to the NPRM. One commentor suggested that the Commission hold a public hearing regarding these rules. The Commission is willing to hold a hearing if a sufficient number of those interested in the proposed changes to the regulations would like an opportunity to testify. In particular, testimony is sought from political committees who would be subject to the revised best efforts requirements. The Commission is interested in testimony on whether political committees expect to find the new proposals to be excessively burdensome or whether the proposed rules would provide a workable method of ensuring more complete public disclosure of contributor information. In addition, the Commission would welcome testimony on the timing of amended reports containing this information.

List of Subjects in 11 CFR Part 104

Campaign funds, Political candidates, Political committees and parties, Reporting requirements.

Dated: January 8, 1993.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 93–725 Filed 1–12–93; 8:45 am]

BILLING CODE 6715–01–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Standards for Flammability of Children's Sleepwear: Sizes 0 Through 6X and 7 Through 14; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Commission is considering amendment of the flammability standards for children's sleepwear in sizes 0 through 6X and 7 through 14. The amendment under consideration would exempt tight fitting garments and garments intended for infants from the existing sleepwear standards. The Commission is considering such an amendment because of changes in the marketplace and consumer preference. This notice discusses the risk of injury, the products subject to the existing regulation, and the changes the Commission is considering. The Commission invites comments concerning the risk of injury identified in this notice, the regulatory alternatives being considered, and other possible alternatives for addressing the risk. The Commission also invites submission of an existing standard or statement of intention to modify or develop a voluntary standard to address the risk of injury. Elsewhere in this issue of the **Federal Register** the staff announces its decision to stay enforcement of sleepwear requirements against garments currently being used as sleepwear that are labeled and marketed as underwear if these garments are skin-tight or nearly skin-tight and garments that are essentially identical in design, material, and fit to such "underwear" garments.

DATES: Comments and submissions are due not later than March 15, 1993.

ADDRESSES: Comments and submissions should be sent, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Terrance R. Karels, Directorate for Economic Analysis, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0962.

SUPPLEMENTARY INFORMATION:

A. Background

Section 4 of the Flammable Fabrics Act ("FFA"), 15 U.S.C. 1193, sets forth procedures for issuing or amending flammability standards for products of wearing apparel made from fabrics and related materials, and fabrics and related materials used in products of wearing apparel. Standards or amendments may be issued under provisions of the FFA to protect the public from unreasonable risks of the occurrence of fire leading to death, personal injury, or significant property damage.

In 1971, the Secretary of Commerce issued a flammability standard for children's sleepwear in sizes 0 through 6X, which became effective in 1972. That standard prescribes tests for children's sleepwear garments and fabrics intended for use in children's sleepwear. The flammability standard for children's sleepwear in sizes 0 through 6X is codified at 16 CFR part 1615.

In 1973, responsibility for administration and enforcement of the FAA was transferred to the Consumer Product Safety Commission by provisions of section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). In 1974, the Commission issued a flammability standard for children's sleepwear in sizes 7 through 14, to become effective in 1975. The tests in that standard are substantially the same as those in the standard for children's sleepwear in sizes 0 through 6X. The flammability standard for children's sleepwear in sizes 7 through 14 is codified at 16 CFR part 1616.

Both standards require that test specimens must self-extinguish when exposed to a small open-flame ignition source. Self-extinguishing fabrics and garments are those that stop burning when removed from an ignition source. Both standards require manufacturers of sleepwear garments to perform prototype tests on specimens of fabric, seams, and trim with acceptable results before beginning production of sleepwear garments. Both standards also require manufacturers of sleepwear fabrics and garments to group fabrics and garments into production units and to randomly sample and test products from each production unit.

Neither standard requires that specific fabrics or flame-retardant treatments be used in the manufacture of children's sleepwear.

The standards define "children's sleepwear" to mean:

> any product of wearing apparel up to and including size 6x [or sizes 7 through 14], such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition.

16 CFR 1615.1(a) and 1616.2(a).

The Commission has previously considered certain amendments to the children's sleepwear standards. In 1977, the Commission proposed an amendment to the standard for sizes 0 through 6X to exempt sleepwear garments smaller than size 1 from the standard. See 42 FR 4849. However, the Commission subsequently withdrew the proposal. The Commission concluded, at that time, that "the potentially higher

risk for injury to infant due to burns, exceeds the possible benefits from untreated cotton." See 43 FR 31348–49. Similarly, when the Commission considered the sleepwear standard for sizes 7–14, some comments requesting an exemption for close fitting pajamas were received. However, at that time, the Commission did not believe that such an exemption was appropriate. See 40 FR 3276, 3278 (1975); 39 FR 15210 (1974).

Now that the Commission has had more experience with the flammability standards and has had an opportunity to observe changes in the marketplace, the Commission is considering amending the standards to exempt sleepwear garments that are close-fitting or that are intended for infants under one year of age. After examining the data on ignition incidents involving such garments and considering consumers' preference for cotton sleepwear, the Commission believes that this exemption is likely to allow greater consumer preference without increasing the risk of injury.

The Commission also believes that such an exemption would alleviate the current confusion in interpreting the term "children's sleepwear." Due to frequent changes in garment design and use, the distinction between "sleepwear" and "daywear" has become increasingly blurred.

In 1984, the Commission staff developed an enforcement guideline pamphlet with guidelines to distinguish between children's sleepwear and non-sleepwear garments. Due to frequent fashion changes, the pamphlet has since been revised five times. Under its enforcement policy, 16 CFR 1615.64(c) and 1616.65(c), the staff considers three factors in determining whether a garment is sleepwear: (1) Its suitability for sleeping, (2) the distribution and promotion of the product, and (3) the likelihood that the item will be used as sleepwear. (Reference 1.)

In response to concerns about the marketing of garments similar to sleepwear that did not comply with the sleepwear standards, about difficulties with the term sleepwear, and continued demand by consumers for cotton garments, the Commission established a project to re-examine the scope of the children's sleepwear standards in November 1991.

As a result of this examination, the Commission is issuing this advance notice of proposed rulemaking ("ANPR") which could result in amendment of the children's sleepwear standards that would exempt tight fitting garments and garments intended for infants from the children's sleepwear standards. These garments would still be subject to the general wearing apparel standard codified at 16 CFR part 1610.

B. Statutory Provisions

The sleepwear standards under the FFA were issued "to protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury or significant property damage." 15 U.S.C. 1193(a). Based on current information, the Commission believes that the amendment it is considering in this notice would address recent changes in the marketplace but would not lower the level of protection of the public from the unreasonable risk of fire.

The FFA sets forth the process by which the Commission can issue or amend a flammability standard. The Commission first must issue an ANPR which: (1) Identifies the fabric or product and the nature of the risk associated with the fabric or product; (2) summarizes the regulatory alternatives under consideration; (3) provides information about existing relevant standards and reasons why the Commission does not preliminarily believe that these standards are adequate; (4) invites interested persons to submit comments concerning the identified risk of injury, regulatory alternatives being considered, and other possible alternatives; (5) invites submission of an existing standard or portion of a standard as a proposed regulation; and (6) invites submission of a statement of intention to modify or develop a voluntary standard to address the risk of injury. 15 U.S.C. 1193(g).

If, after reviewing comments and submissions responding to the ANPR, the Commission determines to continue the rulemaking proceeding, it will issue a notice of proposed rulemaking. This notice must contain the text of the proposed rule along with alternatives the Commission has considered and a preliminary regulatory analysis. 15 U.S.C. 1193(i). Before issuing a final rule, the Commission must prepare a final regulatory analysis, and it must make certain findings concerning any relevant voluntary standard, the relationship of costs and benefits of the rule, and the burden imposed by the regulation. *Id.* 1193(j). The Commission also must provide an opportunity for interested persons to make an oral presentation before the Commission issues a final rule. *Id.* 1193(d).

C. Possible Amendment

This notice initiates the rulemaking process to amend the children's sleepwear flammability standards.

1. The Products

The products of concern are children's sleepwear garments in sizes 0 through 6X and 7 through 14 that are currently subject to the Commission's flammability standards in 16 CFR parts 1615 and 1616.

Currently, untreated garments made of 100 percent cotton cannot be sold for children's sleepwear because they will not pass the tests in the children's sleepwear flammability standards without flame retardant treatment. There has been an increasing trend toward consumer preference for cotton. There have been changes in the market as a result of this demand, such as (1) more multipurpose clothing and (2) sale of so-called "long underwear" year round, that have resulted in confusion between "sleepwear" and non-sleepwear. (Reference 1.)

Presently, there is a relatively low per capita consumption of complying sleepwear. (Reference 4.) This indicates that consumers may be using other items, such as cotton long underwear, playwear, and T-shirts, for sleeping. The exemption the Commission is considering would allow certain cotton garments (close fitting or intended for infants under one year of age) to be sold as sleepwear. The availability of some tight fitting cotton garments, which appear to be safer than looser fitting garments, for sleepwear might result in a move away from use of some cotton non-sleepwear items, such as loose fitting T-shirts, as sleepwear. (Reference 5.)

At the present time, the staff estimates that there are 63 known domestic manufacturers of children's sleepwear. The estimated annual sales of children's sleepwear are approximately 105 million units. The retail value of sales is estimated at $1.1 billion. (Reference 4.)

2. The Risk of Injury

The standards are intended to eliminate the risk of personal injury or death from fire as a result of contact between children's sleepwear and an ignition source.

The staff reviewed injury data from the National Electronic Injury Surveillance System ("NEISS") involving ignition of clothing for 1980 through 1991. Children less than 15 years old, the group presumably covered by the sleepwear standards, made up about one-third of the estimated injuries. Among this group of children, nightwear accounted for only about eight percent of the estimated 11,450 injuries in those cases where the type of garment was reported. (Reference 2.)

Infants younger than one year old accounted for a very small proportion of the estimated injuries (1.3 percent) in incidents where the type of garment was reported. About 170 infants were estimated to have been treated for burn injuries involving ignition of clothing. This estimate was based on an actual sample of only three cases, one involving daywear, one involving nightwear, and one involving an unspecified type of clothing. (Reference 2.)

Although the Commission has limited data on the fit of sleepwear garments involved in ignition incidents, in a majority of incidents involving sleepwear, the garments worn were nightgowns which are loose fitting. Approximately 96 percent of the estimated 910 nightwear injuries involved females, while only 35 percent of the estimated 9,710 daywear injuries involved females. The injury reports indicate that nightgowns were the predominant kind of nightwear involved in injuries to girls. (Reference 2.)

Since issuance of these standards, several studies have been conducted concerning the influence of garment configuration on clothing ignition. A Canadian study in 1985 indicated that a loose and flowing garment style was the dominant factor in burn severity in clothing burns of Canadian children. A 1978 study of U.S. clothing fire incidents found that ignition often occurred in the loosest area of the garment. (Reference 3.)

Several studies involving mannequins have shown that garment design is an important factor in flammability. Although mannequin tests cannot simulate the movement of a victim, and therefore do not perfectly reflect reality, they do provide some useful data. Some such studies have shown that even use of a belt can slow the rate of flame spread and reduce the area of burn. An Australian study used mannequins to compare pajamas and nightgowns of the same fabric and found that for each of five fabrics the nightgowns presented greater risk. (Reference 3.)

As explained above, it appears that non-complying cotton garments are being worn as sleepwear. If the standards are changed to allow close fitting cotton garments for sleepwear, consumers may substitute such items for looser fitting cotton garments. This substitution could reduce the risk of ignition injuries. (Reference 5.)

Risk of clothing ignition may be affected by things other than the garments themselves. Research conducted in the 1970's found that common ignition sources in burns associated with wearing apparel were small open flames such as matches, lighters, and candles. Ranges, open fires, and space heaters were other frequent ignition sources. Substantial market changes have occurred with these ignition sources since that study. The decline in the number of smokers has likely had some effect on the accessibility of matches and lighters. In 1970, 50.2 percent of all males and 30.8 percent of females in the United States smoked; in 1987, 31 percent of males and 26.2 percent of females smoked. The percentage of households with gas ranges has also declined from 58 percent in 1960 to 42 percent in 1987. Additionally, gas ranges and electric space heaters have been the subject of improved voluntary standards. Also, sales of kerosene heaters have declined significantly in the past ten years. These factors may have contributed to a decreased risk of injury associated with ignition of children's sleepwear over the past 20 years. (Reference 5.)

3. Regulatory Alternatives

The Commission is considering amending its children's sleepwear standards to accommodate market changes and consumer preferences that have arisen since issuance of the flammability standards. The Commission believes that it can amend the standard to address these changes without reducing the protection of the public against the unreasonable risk of fire.

The first alternative being considered by the Commission is amendment of the children's sleepwear standards to exempt tight fitting garments and garments intended for infants. These garments would, however, continue to be subject to the requirements of the Standard for the Flammability of Clothing Textiles, codified at 15 CFR part 1610.

The Commission seeks comments concerning the group of garments it is considering exempting from the sleepwear standards. Comments addressing how the Commission should define "tight fitting garments" and what sizes or types of garments should be considered intended for infants would be helpful.

A second alternative is for the Commission to issue an enforcement policy rather than amending the flammability standards. Under this approach, the Commission would issue a notice of enforcement policy explaining that the Commission would relax its enforcement of the existing sleepwear regulations when applying them to tight fitting garments and sleepwear intended for infants. The notice would provide guidance to the regulated community on the items for which enforcement would be relaxed.

Another alternative under consideration is to maintain the existing sleepwear standards and the current enforcement policy without change.

4. Existing Relevant Standards

The provisions of both flammability standards for children's sleepwear require that specimens must self-extinguish when exposed to an open flame ignition source. The average char length must not exceed 7 inches, and no individual char length may exceed 10 inches. Both standards define "children's sleepwear" as "any product of wearing apparel (up to size 6X or sizes 7 through 14) such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition." 16 CFR 1615.1(a); 16 CFR 1616.2(a).

No voluntary standards addressing the flammability of children's sleepwear exist.

As part of its review of the FFA sleepwear standards, the staff examined the sleepwear standards in Canada, Australia, and New Zealand. All three standards make a distinction between sleepwear that presents a low fire hazard and those items that present a greater risk. (Reference 3.)

Canada

In 1971, Canada issued minimal flammability regulations for children's sleepwear in sizes 0 to 6X. Because burn injuries and deaths to children resulting from the ignition of sleepwear continued, further studies were conducted. These studies indicated that garment style played a major role in the flammability hazard of sleepwear, and that loose and flowing nightgowns were responsible for the most severe burns. Currently there are two regulations for flammability of children's sleepwear in Canada; one applies to sleepwear considered to be a low fire hazard and the other to sleepwear that presents a greater fire hazard.

Sleepwear in the high fire hazard category are children's nightgowns, nightshirts, dressing gowns, bathrobes, housecoats, robes, pajamas and baby doll pajamas in sizes up to and including 14X. Testing methods are similar to those of the U.S. sleepwear standards. Sleepwear considered to present a low fire hazard are sleepwear designed for hospital use in sizes 0 to 14, sleepwear designed for infants up to 7kg (15.4lb.), and polo pajamas and

sleepers in sizes 0 to 14X. Tests for these garments are similar to the Commission's general clothing flammability standard.

Australia

In Australia, research also was conducted that found fitting and clinging sleepwear garments were less likely to be involved in burn accidents than loose garments and that burns were likely to be less severe with the closer fitting garments. Australia's standard has three categories of sleepwear based on fire risk. Category 1 garments are made from low fire hazard type fabrics. They must be labeled "low fire danger." Category 2 garments are those that are styled to be form fitting and are designed to reduce fire hazard. The standard provides illustrations of acceptable styles of sleepwear. In addition to garment style, the burning behavior of the fabric is also considered. These garments must be labeled "styled to reduce fire danger." Category 3 garments are all other garments that do not fit into categories 1 or 2. These garments must be labeled "warning high fire danger keep away from fire."

New Zealand

New Zealand's requirements are similar to, but more stringent than, Australia's. They require all commercially manufactured nightwear for children from 1 to 14 years old be made from fabrics defined as "low fire risk" or be designed in a safer (i.e., closer fitting, pajama-type) style.

5. Invitations to Comment

In accordance with section 4(g) of the FFA, the Commission invites comments on this notice. Specifically, the Commission invites the following types of comments.

1. Comments concerning the risk of injury identified in this notice, the regulatory alternatives discussed above, and other alternatives to address the risk of injury;

2. An existing standard or portion of a standard as a proposed rule;

3. A statement of intention to modify or develop a voluntary standard to address the risk of injury identified in the notice along with a description of a plan to modify or develop the standard.

In addition, the Commission is interested in obtaining further information that could assist its development of an appropriate amendment. Thus, the Commission seeks comments on the following issues.

1. Guidance on defining "tight fitting garments" and "garments intended for infants."

2. The need for labeling on any tight fitting or infant garments that could be exempted from the children's sleepwear standards.

3. Potential economic effects of the alternatives discussed in this notice on manufacturers, retailers, and consumers of children's sleepwear.

4. The percentage of sales of children's sleepwear that are loose fitting garments and that are tight fitting.

5. The number of U.S. sleepwear manufacturers who sell their products in Canada.

6. Description of consumer trends toward non-traditional cotton sleepwear for children.

All comments and submissions should be addressed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, and received no later than March 15, 1993.

D. Stay of Enforcement

Elsewhere in this issue of the **Federal Register** the staff announces its decision to stay enforcement of sleepwear requirements against (1) garments currently being used as sleepwear that are labeled and marketed as underwear if these garments are skin-tight or nearly skin-tight and (2) garments that are essentially identical in design, material, and fit to such "underwear" garments.

Dated: January 4, 1993.

Sadye E. Dunn,

Secretary, Consumer Project Safety Commission.

References

The following documents contain information relevant to this rulemaking proceeding and are available for inspection at the Office of the Secretary, Consumer Product Safety Commission, room 420, 5401 Westbard Avenue, Bethesda, Maryland:

1. Memorandum from Liz Gomilla, Division of Regulatory Management and Eric Stone, Division of Administrative Litigation, to Terrance R. Karels, Project Manager, dated March 13, 1992, entitled Problems Associated with Enforcement of the Children's Sleepwear Standards.

2. Memorandum from Bea Harwood and Terry L. Kissinger, EPHA, to Terrance R. Karels, Project Manager, dated April 20, 1992, entitled Injury Data Related to the Sleepwear Flammability Standards and Information on Surveys of Burn Treatment Centers. ECPA, dated May 6, 1992, entitled Final Report, Children's Sleepwear Project.

3. Memorandum from Linda Fansler, ESME, to Terrance R. Karels.

4. Memorandum from Anthony C. Homan, ECPA, to Terrance R. Karels, Project Manager, dated March 25, 1992, entitled Market Sketch—Children's Sleepwear.

5. Briefing Memorandum from Terrance R. Karels to the Commission, dated November 3, 1992.

[FR Doc. 93–778 Filed 1–12–93; 8:45 am]
BILLING CODE 6355–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

Extension of Time Limit in Which to File Vessel Repair Documents

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to extend the time limit allowed to vessel operators to file documentation submitted in connection with vessel repair entries, to include applications for relief from the assessment of duties under the vessel repair statute. It is also proposed that any shipyard cost estimates available be submitted at the time that a vessel repair entry is made.

DATES: Comments must be received on or before March 15, 1993.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations and Disclosure Law Branch, Franklin Court, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Bruce Friedman, Office of Trade Operations, 202–343–0024 (operational matters), or Larry L. Burton, 202–482–6940 (legal matters).

SUPPLEMENTARY INFORMATION:

Background

Section 1466 of title 19 of the United States Code provides that a duty of 50 per cent ad valorem shall be assessed upon the value of repairs accomplished outside of the United States on certain American-flag vessels. The statute itself, as well as numerous judicial and administrative interpretations, provides exceptions to the assessment of duty under specific circumstances.

The statutory mandate is implemented in § 4.14 of the Customs Regulations (19 CFR 4.14), which provides the necessary working guidelines for Customs as well as vessel operators. Among the matters set forth in § 4.14 are the procedures for making entry and for seeking administrative refund or remission of assessed duty. It is required that American-flag vessels submit a vessel repair entry to Customs

within 5 working days after arrival from a foreign port following any shipyard work. Depending upon whether actual shipyard invoices are available at the time an entry is submitted, the regulations provide that such entry may be denominated either a complete or incomplete submission.

The regulations currently provide that, absent the grant of an extension, in the case of incomplete entries documents providing a full and complete account of foreign shipyard costs incurred must be submitted to Customs within 60 days from the date of vessel arrival in the United States (19 CFR 4.14(b)(2)(ii)). Vessel repair liquidation units may extend this time by 30 days. Additional extensions must be approved by Customs Headquarters.

Comments have long been heard from vessel operators that the matter of final charges is frequently the subject of negotiation between themselves and foreign shipyards. It is claimed that this process often makes it impossible to meet the regulatory submission deadline without the necessity of seeking an extension from Customs. Customs has been reluctant to extend the filing period, recognizing that extending the period for the gathering of all evidence has the inevitable effect of delaying the eventual collection of the revenue. It appears, however, that such a delay already exists owing to the large number of operators seeking extensions, and that a savings to both vessel operators and Customs may be realized by not having to process numerous requests for extension. Customs is proposing, therefore, to extend the filing period from the current 60-day limit to a period of 90 days.

Customs is taking this opportunity to propose an additional amendment to the vessel repair regulations. In the case of vessel repair entries submitted as incomplete accounts, Customs requires that the best estimate of foreign repair costs must be provided pending receipt of actual final invoices. Such statements of cost are used to calculate the amount of the bond or duties estimated that must be deposited with Customs prior to departure of vessels from port.

It has been noted that, on some occasions, final invoice amounts are wildly divergent from initially estimated costs, and the revenue may be inadequately protected by small deposits or bonds. It is also known that, in many cases, estimates from foreign shipyards have been submitted to vessel operators prior to the commencement of repair operations. This is nothing more than sound business practice. Customs merely proposes to require that, when an estimate has been submitted to a vessel operator, the estimated cost filed at the time of submission of an incomplete vessel repair entry must reflect that estimate.

In addition, a cross reference to the bond provisions in part 113, not revised when that part was revised, is corrected.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, U.S. Customs Service, Franklin Court, suite 4000, 1099 14th St., NW., Washington, DC.

Regulatory Flexibility Act

For the reasons set forth in the preamble and pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Larry L. Burton, Carrier Rulings Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Reporting and recordkeeping requirements, Vessels.

Proposed Amendments

Accordingly, it is proposed to amend § 4.14 Customs Regulations (19 CFR 4.14), as set forth below.

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

The general authority citation for part 4 and the relevant specific authority citation for § 4.14 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. app. 3;

* * * * *

Section 4.14 also issued under 19 U.S.C. 1466, 1498;

* * * * *

§ 4.14 [Amended]

2. Section 4.14, paragraph (b)(1) is proposed to be amended by removing the reference "§ 113.14(m)" and adding, in its place, "§ 113.13".

§ 4.14 Foreign equipment purchases by, and repairs to, American vessels.

* * * * *

(b) * * *

(2) * * *

3. Section 4.14, paragraph (b)(2) introductory text, is proposed to be amended by adding a new fifth sentence to read as follows: * * * Estimated foreign shipyard costs in the possession of or known to the vessel operator at the time of filing the entry must be submitted with an entry marked as an incomplete account.

* * * * *

4. Section 4.14, paragraphs (b)(2)(ii), (b)(2)(ii)(B), and (d)(1)(ii), is proposed to be amended by removing the number "60" where it appears, and adding, in its place, the number "90".

Carol Hallett,

Commissioner of Customs.

Approved: January 4, 1993.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 93–470 Filed 1–12–93; 8:45 am]

BILLING CODE 4820–02–M

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19 CFR Part 142

Publication of Filer Codes and the Names of Individuals, Brokers or Importers Assigned the Codes

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Advanced notice of proposed rulemaking.

SUMMARY: This document gives advance notice of a proposal to amend the Customs Regulations to provide for the publication of a list of filer codes and the identity of individuals, licensed Customs brokers or importers assigned the specific number. This publication will improve control for various components of the trade community and reduce numerous questions and problems for Customs relating to entry processing requirements, but could also provide a means to access commercial import information heretofore treated as confidential by Customs.

DATES: Comments must be received on or before March 15, 1993.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the Regulations and Disclosure Law Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Deann Seckler, Entry Rulings Branch, (202) 482–7040.

SUPPLEMENTARY INFORMATION:

Background

Customs has undertaken numerous initiatives relating to the development and implementation of a comprehensive integrated Automated Commercial System (ACS). Since its inception ACS has enabled Customs and the trade community to more efficiently control the flow of imported merchandise into the United States. The ACS procedure was a significant departure from the manual processing of Customs entries. The program has evolved over the past 20 years and certain changes to procedures originally developed have been modified in response to agency and trade community needs.

T.D. 85–122 describes certain entry procedures required by the ACS, including the identification of an entry filer code, which became effective October 1, 1985. The entry filer code is a unique 3 character (alphabetic, numeric, or alphanumeric) code which is assigned to all licensed broker companies currently filing Customs entries and importers currently filing a significant number of entries on a regular basis. Entry filer codes are not assigned to intermittent importers. The entry preparer uses this code nationwide as the beginning 3 characters of the number for all Customs entries, regardless of where the entries are filed.

As a result of trade community concerns, Customs proposes to publish a list of filer codes and the identity of individuals, licensed Customs brokers or importers assigned that number. This new publication will improve control for various components of the trade community and reduce numerous questions and problems for Customs relating to entry processing requirements.

Because publication of the filer codes and the names could provide a means for the public to gain access to commercial information regarding import transactions which Customs has heretofore treated as confidential, under the Trade Secrets Act (18 U.S.C. 1905) and the Freedom of Information Act (5 U.S.C. 552(b)(4)), Customs is soliciting the views of interested parties. Specific requests for this proposal have been initiated by the National Customs Brokers and Forwarders Association of America, sureties, and others.

Comments

In order to assist Customs in determining whether to proceed with this proposal, this notice invites written comments. Consideration will be given to any written comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9 a.m. and 4:30 p.m., at the Regulations and Disclosure Law Branch, Franklin Court, 1099 14th Street, NW., suite 4000, Washington, DC.

Carol Hallett,

Commissioner of Customs.

Approved: December 24, 1992.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–779 Filed 1–12–93; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 876

[Docket No. 92N–0382]

Gastroenterology-Urology Devices; Effective Date of Requirement for Premarket Approval of Testicular Prosthesis

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; opportunity to request a change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of product development protocol (PDP) for the testicular prosthesis, a medical device. The agency is also summarizing its proposed findings regarding the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the statute's approval requirements and the benefits to the public from the use of the device. In addition, FDA is announcing an opportunity for interested persons to request that the agency change the classification of the device based on new information. This action is a followup to FDA's notice of intent published in the Federal Register of January 6, 1989 (54 FR 550).

DATES: Written comments by March 15, 1993; requests for a change in classification by January 28, 1993. FDA intends that if a final rule is issued, based on this proposed rule, PMA's will be required to be submitted within 90 days of the effective date of the final rule.

ADDRESSES: Written comments or requests for a change in classification to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mark D. Kramer, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date as "preamendments devices."

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved premarket approval application (PMA) until 90 days after FDA's promulgation of a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act (21 U.S.C. 360c), whichever is later. Also, a preamendments device is not required to have an approved investigational device exemption (IDE) (21 CFR part 812) contemporaneous with its commercial distribution until the date

identified by FDA in the final rule requiring the submission of a PMA for the device.

Section 515(b)(2)(A) of the act provides that a proceeding to promulgate a final rule to require premarket approval shall be initiated by publication in the Federal Register of a notice of proposed rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that, if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to require premarket approval or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). FDA has in the past requested that manufacturers take action to prevent the further use of devices for which no PMA has been filed and may determine that such a request is appropriate for testicular prostheses.

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House Report on the amendments states that "the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval." (H. Rept. 94–853, 94th Cong., 2d sess. 42 (1976)).

A. Classification of the Testicular Prosthesis

In the Federal Register of November 23, 1983 (48 FR 53012 at 53024), FDA issued a final rule classifying the testicular prosthesis into class III (§ 876.3750 (21 CFR 876.3750)). The preamble to the proposal to classify the testicular prosthesis (46 FR 7580, January 23, 1981) included the recommendation of the Gastroenterology-Urology Devices Panel (the Panel), an FDA advisory committee, which met on September 26 and 27, 1976, regarding the classification of the device. The Panel recommended that the device be in class II, but identified certain risks to health presented by the device. FDA disagreed with the Panel's recommendation and proposed that the testicular prosthesis be classified into class III. The proposal stated that the agency believed that insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide this assurance. The proposal stated that premarket approval is necessary for this device because it presents a potential unreasonable risk of injury due to: (1) Possible migration of silicone gel from the interior of the prosthesis to adjacent tissue (with or without rupture of the silicone elastomer shell); and (2) possible long-term toxic effects of the silicone polymers from which the prosthesis is fabricated. In support of its proposal to strengthen regulatory surveillance of the device, FDA cited references supporting the proposed classification.

In the Federal Register of April 7, 1981 (46 FR 20687), the agency reopened the comment period for the proposed regulation classifying this device for an additional 60 days. This additional 60-day comment period was established because the proposed classification regulation for the testicular prosthesis had stated incorrectly that the Panel recommended that the device be classified into class III, rather than class II. In the Federal Register notice of April 7, 1981, FDA announced that on April 13, 1981, a meeting of the Panel would be held. During this meeting, the Panel reviewed all comments, and again recommended that the testicular prosthesis be classified into class II. No other comments were received during the remainder of the comment period. Again, FDA disagreed with the Panel's recommendation and proposed that the testicular prosthesis be classified into class III. FDA searched the medical literature and further documented the risks to health resulting from silicone implants.

The preamble to the November 23, 1983 final rule (48 FR 53012) classifying the device advised that the earliest date by which PMA's for the device could be required was June 30, 1986, or 90 days after promulgation of a rule requiring premarket approval for the device, whichever occurs later.

In the Federal Register of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval of 31 preamendments class III devices assigned a high priority by FDA for the application of premarket approval requirements. Among other things, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's. Using those factors, FDA has determined that the testicular prosthesis identified in § 876.3750 has a high priority for initiating a proceeding to require premarket approval. Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the testicular prosthesis has an approved PMA.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the testicular prosthesis within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was in commercial distribution before May 28, 1976, or has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the testicular prosthesis during FDA's review of the PMA or notice of completion of the PDP. FDA intends to complete the review of any PMA for the device within 180 days and a notice of completion of a PDP within 90 days. FDA cautions that, under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period for a PMA beyond 180 days unless the agency finds that "* * * the continued availability of the device is necessary for the public health."

FDA intends that, under 21 CFR 812.2(d), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or notice of completion of a PDP is required to be filed, the exemptions in 21 CFR 812.2(c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any testicular prosthesis which is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA or PDP is not filed by that date, or for which PMA approval has been denied or withdrawn.

If a PMA or notice of completion of a PDP for the testicular prosthesis is not filed with FDA within 90 days after the date of promulgation of any final rule requiring premarket approval for the device, commercial distribution of the device must cease. The device may be distributed for investigational use only if the requirements of the IDE regulations regarding significant risk devices are met. The requirements for significant risk devices include submitting an application to FDA for its review and approval. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that IDE applications should be submitted to FDA at least 30 days before the end of the 90-day period to avoid interrupting investigations.

C. Description of the Device

A testicular prosthesis is an implanted device that consists of a solid or gel-filled silicone rubber prosthesis that is implanted surgically to resemble a testicle.

The proposed rule to require premarket approval of testicular prostheses applies only to legally marketed testicular prostheses identified above that were commercially distributed before May 28, 1976, and to devices introduced into commercial distribution since that date that have been found to be substantially equivalent to such testicular prostheses.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the testicular prosthesis to have an approved PMA or PDP, and (2) the benefit to the public from the use of the device.

E. Degree of Risk

On April 13, 1981, the Panel met to review and consider all comments that were submitted to FDA on the proposed regulation to classify testicular implants into class III. During this meeting the panel reviewed all comments and again recommended that the testicular prosthesis be classified into class II. Again FDA disagreed with the Panel's recommendation and proposed that the testicular prosthesis be classified into class III.

Because the silicone gel-filled testicular prosthesis is similar in materials and construction to the silicone gel-filled breast prosthesis (Refs. 1 through 3), many of the risks associated with the use of the silicone gel-filled breast prosthesis may also be associated with the use of the silicone gel-filled testicular prosthesis. Additionally, several of these risks may also be associated with the use of the solid silicone rubber testicular prosthesis. FDA has now determined that the following are significant risks associated with the use of either the solid or the gel-filled silicone rubber testicular prosthesis:

1. *Extrusion/erosion of the testicular prosthesis.* Extrusion and erosion of the testicular implant through the scrotal wall are among the most common complications associated with the use of these devices. Prosthesis extrusion is usually associated with concurrent wound dehiscence in instances where the device was inserted through a scrotal incision (Refs. 1, 4 through 8). Skin erosion has been reported following implantation of the testicular prosthesis due to the presence of a Dacron suture tab (Refs. 6, 8, and 9), insertion of an oversized device (Ref. 5), or aggressive dissection of the subdartos pocket (Ref. 10), and could result in subsequent infection or device extrusion. Beer and Kay (Ref. 11) suggest that the rate of extrusion due to wound dehiscence alone is between 3 and 8 percent.

2. *Displacement of the testicular prosthesis.* Displacement or migration is another commonly reported adverse event. The prosthesis can migrate to a variety of locations within the body, including in front of or behind the contralateral testis or above the scrotum. Displacement can be caused by either inadequate scrotal distension prior to insertion or improper surgical placement/fixation (Refs. 4, 5, and 12).

3. *Fibrous capsular contracture.* Fibrous capsular contracture, the formation of a constricting fibrous layer around the prosthesis, has been associated with the presence of testicular implants (Ref. 6). Capsular contracture may result in excessive scrotal firmness, discomfort, pain, disfigurement, and displacement of the implant.

Although the etiological factors of capsular contracture have not been reported with testicular implants, several factors have been suggested with the breast implant, including hematoma, infection, and foreign body reaction. Despite these reports, no single factor has been demonstrated to be the sole cause of contracture. The etiology of contracture is not understood (Refs. 13 through 18).

4. *Infection.* Infection, a risk of any surgical implant procedure, is associated with the use of testicular implants (Refs. 4, 6, 7, 8, 11, 12, 19, and 20). As in any implantation procedure, compromised device sterility and surgical techniques may be major contributing factors to this risk. Usually, the occurrence of infection necessitates the removal of the prosthesis (Refs. 6, 7, 8, 20, and 21). It has been suggested with the silicone gel-filled breast prosthesis that infection may also contribute to the early development of capsular contracture (Refs. 14, 15, 16, 22, and 23).

5. *Human carcinogenicity.* Carcinogenesis has been widely discussed as a reputed risk secondary to implantation of any material. Evidence from the literature indicates that, in animal studies, different forms of silicone have been associated with various types of cancer (Refs. 24 through 28). Cases of several types of cancer in humans have been reported in association with various forms of

implanted silicone (Refs. 29 through 32).

6. *Human reproductive and teratogenic effects.* The effect of certain silicone compounds on the reproductive potential of the male is largely unknown. Le Vier and Jankowiak report that at least one form of organosiloxane, which is known to be present in some silicone gels, mimics estrogens in the male rat, leading to rapid testicular atrophy (Ref. 36).

Teratogenesis includes the origin or mode of production of a malformed fetus and the disturbed growth processes involved in the production of a malformed fetus. Studies using silicone fluid in animals have been minimal, and yield contradictory and inconclusive results (Refs. 33 through 35). Prolonged contact with either the solid silicone device, or the silicone gel-filled membrane and its components, presents a potential risk of teratogenicity in humans.

The risk of adverse reproductive and teratogenic effects from testicular implants exists only in the subset of patients who have a single prosthesis with a remaining functional testicle.

7. *Immune related connective tissue disorders—immunological sensitization.* Immunological sensitization may be a serious risk associated with the implantation of a testicular prosthesis. Immune related connective tissue disorders have been reported in women who have silicone gel-filled breast prostheses or who have had silicone injections in augmentation mammoplasty. There are clinical reports of several patients who have undergone augmentation mammoplasty with silicone gel-filled breast prostheses and later presented with connective tissue disease-like syndromes (Ref. 37). Because testicular prostheses consist of similar silicone elastomers and gels, further study of the potential risk of immune related connective tissue disorders in humans with these implants is warranted.

8. *Biological effects of silica.* Amorphous (fumed) silica is bound to the silicone in the elastomer of the testicular prosthesis, and may be fibrogenic and immunogenic. Fumed silica and the silicone shell each elicit cellular responses in rats (Ref. 38). The biological effects of silica, particularly the immunologic component of these reactions, present a potential risk and need to be examined.

9. *Silicone gel leakage and migration.* This potential risk pertains only to the gel-filled silicone rubber testicular prosthesis. Silicone gel leakage and migration from the silicone elastomer envelope, either from rupture of the envelope or by leaking of the gel through the envelope (gel "bleed"), are also significant risks of silicone gel-filled testicular prostheses. Rupture of the envelope with gel leakage and subsequent migration may be secondary to surgical technique or mechanical stresses, such as routine manual massage, trauma, and wear on the envelope, and necessitates removal of the prosthesis. In addition to the above, silicone gel-filled breast implants, which are similar to testicular implants in materials and construction, are reported to "bleed" micro amounts of silicone through the intact silicone elastomer shell into the surrounding tissues (Refs. 39 through 48). Although diffusion of silicone gel through the elastomer shell has not specifically been measured in the testicular prosthesis, gel bleed continues to be a possible risk with this device and needs to be evaluated. Migration of the gel into the human body presents the potential for development of adverse effects such as granulomas or lymphadenopathy (Refs. 29 and 30). The ultimate fate of migrating silicone gel within the body is currently not well understood.

10. *Degradation of polyurethane foam.* This potential risk is associated only with those testicular prostheses that are covered with polyurethane foam. The polyurethane foam material that has been used to cover some testicular prostheses is known to degrade over time with a potential breakdown product of 2,4 diaminotoluene (TDA), a known carcinogen in animals (Refs. 49 through 54). The fate of the degraded product in vivo is unknown to date, and the use of this material in testicular implants may have been discontinued (Ref. 6). Case reports of the polyurethane foam covered silicone gel-filled breast implant indicate that there is greater difficulty with the removal of this type of prosthesis due to a fragmented polyurethane shell and/or capsular tissue ingrowth (Refs. 55 through 61). Foreign body responses have been reported concurrent with the use of the polyurethane foam covered testicular prosthesis in humans (Ref. 6).

F. Benefits of the Device

The testicular prosthesis is intended to simulate the presence of a testicle within the male scrotum, and it is indicated in subjects who are missing one or both testes due to either congenital or acquired reasons. Testicular prosthesis implantation is a discretionary surgical procedure performed for psychological, rather than for other medical reasons.

Testicular prostheses are commonly used to correct congenital anomalies in young males who are born without one or both testicles (i.e., testicular agenesis or atrophy) (Refs. 6, 19, and 62 through 64). Additionally, such devices are often implanted subsequent to removal of one or both testes for one of several reasons: Malignant cancer of the prostate, testicular cancer, testicular torsion, cryptorchidism, failed orchiopexy, epididymitis/orchitis, or testicular trauma (Refs. 4, 6, 12, and 65 through 68).

Men facing orchiectomy (removal of the testicles) may experience depression that accompanies this degenerative change in body image. Such feelings of depression have been equated to the experiences of women who have undergone mastectomy or hysterectomy (Refs. 6, 8, and 19). Shame and feelings of inferiority are common, and can lead to anxiety, personality changes, changes in one's customary life style, fear of sexual rejection, and psychogenic impotence (Refs. 5 through 8, 11 and 69). It has also been reported that a visible defect in a child's genital region may result in feelings of inferiority, leading to social isolation. Such occurrences may produce psychological problems, and they may have an effect upon the child's emotional development and sexual identity (Refs. 2, 3, 5 through 8, 11, 63, and 70). Implantation of a testicular prosthesis may help to alleviate such feelings in males of all ages, thereby improving quality of life (Refs. 69, 71, and 72). The studies which have been published indicate that recipients of testicular prostheses exhibit a high degree of satisfaction with their surgery (Refs. 2, 67, and 73). However, these conclusions regarding the psychological benefit of the testicular prosthesis are neither quantitative, nor were they measured using established standardized tests.

G. Need for Information for Risk/Benefit Assessment of the Device

As the above sections indicate, there is reasonable knowledge of the risks and benefits associated with the testicular prosthesis. There is, however, insufficient valid scientific evidence to permit FDA to perform a risk/benefit analysis. Therefore, FDA is now seeking further information on the following safety and effectiveness issues associated with the testicular prosthesis:

1. Long-term effectiveness data for the device is needed. The incidence of implant failure and attendant causes, as well as the incidence of reoperations required, have not been clearly identified. Such device failures include, but are not limited to: Implant

migration, extrusion, and erosion. Also, the incidences of infection, hematoma, pain/discomfort, and penile and scrotal edema secondary to testicular prosthesis implantation are poorly understood. This information is necessary in order to perform an appropriate risk/benefit analysis.

2. The incidence of fibrous capsular contracture must be clarified. It is not clear what methods are used in the prevention and treatment of capsular contracture in patients with testicular implants, nor is it clear how these approaches may reduce the risks associated with use of this device.

3. For the gel-filled silicone rubber testicular prosthesis, the potential risks associated with silicone gel leakage and its subsequent migration need further clarification. This should include consideration of gel cohesiveness, envelope thickness/strength, diffusion of the gel through the envelope (gel "bleed"), and the role that physical, mechanical, and chemical characteristics of silicone elastomers and gels play in the immediate or long-term rupture of testicular implants.

4. Data from both long-term clinical studies and mechanical testing are needed to determine the incidence of rupture/fracture and its relationship to the physical characteristics, e.g., tensile strength and compressive cyclic fatigue strength, of the device.

5. The potential long-term adverse effects of testicular implants, such as cancer, immune related connective tissue disorders, and reproductive and teratogenic effects, are unknown. Likewise, in the polyurethane foam covered testicular prosthesis, the long-term effects of the polyurethane foam (such as mechanical integrity and carcinogenicity) are also not understood. The agency notes that neither the particles, which may be shed from the shell (Refs. 18 and 74), nor the chemical forms of silicone monomers or other additives, which may leach from the shell, have been characterized, and their metabolic fates are not known (Ref. 33). Furthermore, no satisfactory independent study has thoroughly evaluated the chronic long-term toxicology of crosslinked silicone polymers of different molecular sizes. Because young males, including infants, are the recipients of a significant percentage of these implants, information regarding the chronic toxic effects, including possible reproductive and teratogenic effects of silicone, could be of substantial importance in determining the risk to these patients.

6. The immediate post-surgical and long-term psychological benefits of the device, as compared to pre-surgical levels, need to be examined and quantified. In order to document the benefits of scrotal construction/restoration with testicular prostheses, such factors as patient satisfaction, improved self-image, and improved psychological outlook, need to be studied using well established standardized tests.

FDA believes, therefore, that the testicular prosthesis should undergo premarket approval to determine whether the risks of using the device are adequately balanced by its benefits.

II. PMA Contents

Any PMA for the device must include the information required by section 515(c)(1) of the act and the implementing provisions under 21 CFR 814.20. Such a PMA shall include a detailed discussion, accompanied by the results of applicable preclinical and clinical studies, of the above identified risks and the effectiveness of the device. In particular, the PMA shall include all known or otherwise available data and other information regarding: (1) Any risks known to the applicant that have not been identified in this document, and (2) the effectiveness of the specific testicular prosthesis that is the subject of the application (or, if adequate justification can be provided, applicable effectiveness information for other testicular prostheses). Valid scientific evidence, as defined in 21 CFR 860.7, addressing the safety and effectiveness of the device should be presented, evaluated and summarized in a section or sections of the PMA separate from known or otherwise available safety and effectiveness information that does not constitute valid scientific evidence (e.g., isolated case reports, random experiences, etc.).

A. Manufacturing Information

All manufacturing information for the device should be completely described. The information should include, but not necessarily be limited to, the chemical formulation and manufacturing procedures and processes, presented in a step-by-step manner from the starting materials to the finished product, including, but not limited to, all nonreactants and reactants (including intermediate precursors) for the outer shell, patch, internal gel, suture tab, and polyurethane foam covering (if applicable). A complete master list of the common chemical names and alternate names (manufacturer's trade name or code) for all nonreactants, reactants (including intermediate precursors) and products should be provided. Chemical characterization of the elastomer intermediates, outer shell, patch, internal gel, suture tab, and polyurethane foam covering (if applicable) sufficient to demonstrate control of the chemical processing of the device materials should be provided. This should be based on lot-to-lot comparisons of the following information: (1) The molecular weight distribution, expressed as weight average molecular weight (Mw), number average molecular weight (Mn), peak molecular weight (Mp), Z average molecular weight (Mz), polydispersity (MWD), and viscosity average molecular weight (Mv) of these precursors; (2) the results of analyses for residual levels of volatile and nonvolatile cyclic compounds; and (3) a comparison of viscosity, number average molecular weight, and percent volatiles on a single graph. Documentation establishing the extent of crosslinking in the shell material, or the silicone-hydride and vinyl content of crosslinked shell material, as well as the particle size of the silica if present in the shell, patch, or gel should be provided. The standard operating procedures for sterility and materials qualifications should be included.

B. Preclinical Data

Complete identification and quantification of all chemicals, including residual cyclics and oligomers, extractable from each of the individual structural components (outer shell, patch, internal gel, suture tab, and any other materials) as they are found in the final sterilized device should be reported. The solvents used for extraction should have varying polarities and should include, but not be limited to: ethanol, ethanol/saline (1:9), and dichloromethane. Other, more contemporary extraction techniques, such as analytical-scale supercritical fluid extraction, also may be useful, at least for exhaustive extraction of the silicone materials. Experimental evidence must be provided that exhaustive extraction is achieved with one of the selected solvents, and the percent recovery, especially for the more volatile components, reported. The molecular weight distribution of the extract should also be provided along with the number and weight average molecular weight, and polydispersity. All experimental methodology must be described, and raw data (including instrument reports) provided along with all chromatographs, spectrograms, etc. The limit of detection (2X noise level) must be provided when the analyte of interest is not detected. Laboratory test methods and animal experiments used in the characterization of the physical, chemical (other than exhaustive

extraction) and mechanical properties of the device should be applicable to the intended use of the device in humans. Information relevant to the distribution and metabolic fate of silicone and any other materials used in the manufacturing of the device should be supplied.

All physical and chemical properties of the device should be completely characterized, using a statistically valid number of samples per test. These properties should include, but not necessarily be limited to, tensile, fatigue and shear strengths, elastic modulus, and chemical properties of the sterilized finished device. These tests should include the following specific methods or their equivalent: ASTM Test Method D412 to measure ultimate elongation and total energy to rupture of the outer shells, patches, and other elastomeric components that comprise either the lumen (with the gel-filled silicone rubber testicular prosthesis) or the bulk (with the solid silicone rubber testicular prosthesis) of the finished product; ASTM Test Method D624 to determine tear resistance of all elastomeric components, including the patch material; abrasion resistance test of the outer elastomeric component(s); applied pressure at the rate of 1 Hertz in air versus number of cycles (S/N) curve, constructed on the basis of cyclical compression testing of intact sterilized devices; and ASTM Test Method F703 (section 7.2) to test integrity of adhered or fused joints. A complete report of the cohesivity testing of the gel must also be reported for the gel-filled silicone rubber devices.

For the silicone gel-filled testicular prostheses, the gel bleed performance of the shell (including patch materials in separate testing), determined from the results of measurements using a standard diffusion cell maintained slightly below body temperature (i.e., 35° C) and using stirred, physiologic saline as a receptacle medium for the bleed, must be reported. Each variation in shell thickness or design must be measured to accurately determine diffusion coefficients (with appropriate time dependencies). The chemical identification of the bleed product, including molecular weight distribution, must be reported.

Toxicological effects (e.g., cytotoxicity, mutagenicity, suppression of the immune system, allergenicity, and reproductive and developmental toxicity) should be identified. Complete mutagenicity testing of each chemical extracted from the finished, sterilized components of the device should include the following tests: Bacterial mutagenicity, mammalian mutagenicity, DNA damage, and cell transformation assay.

Acute, subchronic and chronic toxicity studies using the chemicals recovered by the above exhaustive extraction processes should be provided in the evaluation of long-term biocompatibility of the device, including dose response and time to response as well as gross and histopathological findings in tissues both surrounding implants and distal to implant sites (lymph nodes, contralateral testis, prostate, bladder, liver, kidneys, lungs, etc.). Animal studies of chronic toxicity, carcinogenicity, reproductive toxicity, teratogenicity and later effects on offspring should be performed using scientifically justified test methods. This must include animal testing of the individual compounds extracted from the final sterilized device. In particular, a subset of these studies must test the compounds extracted from the materials of the sterilized device for estrogen-like antigonadotropic activity in an appropriate animal model using scientifically valid methods. Teratology/reproductive testing of the final sterilized device and extractables should be performed in an appropriate species using validated methods.

Pharmacokinetic/biodegradation studies of all materials contained in the finished device should be reported. Of special concern are questions regarding the ultimate fate, quantities, sites/organs of deposition, routes of excretion, and potential clinical significance of silicone retention and migration.

For the polyurethane foam covered designs, FDA believes that in vivo implant studies must be performed to identify and determine the bioabsorption, distribution, and elimination of the polyurethane coating (as well as their degradation products) in experimental animals. It is also important to identify and determine the mechanism and rate of degradation, as well as the quantity of TDA generated by the breakdown of polyurethane foam covered testicular prostheses after prolonged exposure under in vivo conditions in animals. Additionally, the agency recommends that retrospective epidemiological and prospective clinical studies be designed to assess the potential of cancer and other long-term complications related to polyurethane foam covered testicular prostheses in humans. The agency suggests that these preclinical and epidemiological studies be conducted as a separate subset of testicular implant safety studies.

C. Clinical Data

Valid scientific evidence should include well-controlled clinical studies, with detailed long-term followup, in order to provide reasonable assurance of the safety and effectiveness of the testicular prosthesis. Such studies should include data on time course presentations of clinical data demonstrating the presence or absence of device migration, skin erosion, implant extrusion, rupture, fibrous capsular contracture, infection, or any other adverse health event, including any effects on the immune system (both local to the device and systemic) and the reproductive system, without regard to the device relatedness of the event. The diagnostic criteria for each type of immunological and allergic phenomenon should be defined at the beginning of the study and cases should be well documented utilizing these criteria.

A detailed protocol for the clinical trial, with explicit patient inclusion/exclusion criteria and a well-defined followup schedule, should be specified. Any deviations from the protocol should be stated and justified. Time course presentations of patient satisfaction with and psychological benefit from the implantation of this device as well as information on the anatomical effect of this device should be provided. Full patient accounting, including: Theoretical followup (the number of patients that would have been examined if all patients were examined according to their followup schedules); lost to followup, including measures taken to minimize such (with all information obtained on patients lost to followup); time course of revisions, including all explant data; and time course of deaths, should be reported. As part of this, each clinical report should clearly state the date that the database was closed to the addition of new information. Detailed patient demographic analyses and characterizations should be presented, and should show that the patients included in the study are representative of the population intended to receive the device.

A statistical demonstration, based on the number of patients who complete the required study period, should show that the sample size of the clinical study was adequate to provide accurate measures of the safety and effectiveness of this device. The statistical demonstration should identify the effect criteria; reasonable levels for Type I (alpha) and Type II (beta) errors; anticipated variances of the response variables; and provide any assumptions

or statistical formulas with copies of any references used and all calculations made. A complete description of any patient randomization technique used, and how these techniques were employed to exclude potential sources of bias, should be provided. Statistical justifications for pooling across several variables, such as investigational site, device usage (initial implantation versus revision), type of device (solid or silicone gel-filled, polyurethane foam coated or uncoated), types of device surfaces, device placement, and incision site, should be provided.

Appropriate control/comparison groups should be included and justified and, if not, their absence must be justified. All hypotheses to be tested must be clearly stated. Appropriate statistical techniques must be employed to test these hypotheses and support claims of safety and effectiveness. A sufficient number of patients needs to be followed for a sufficient length of time to adequately support all statistical claims in any PMA submission.

For the polyurethane foam covered prosthesis, the following information also needs to be presented: (1) The kinetics of the end products generated from the degradation of the polyurethane foam (in vivo); (2) the frequency and incidence of infection and complication of retrieval of the implant by surgeons using both polyurethane foam covered and uncoated prostheses in a retrospective cohort study; and (3) the neoplasticity of the material as well as its general toxicity, including neurological, physiological, biochemical, and hematological effects, as well as pathology following prolonged and repeated exposure to polyurethane foam covered testicular prostheses.

Any epidemiological studies should contain enough subjects to detect a small but significant increase in one or more connective tissue diseases (especially scleroderma) that may be associated with the use of the device.

The agency believes that insufficient time has elapsed to permit a direct evaluation of the risks of cancer and immune related connective tissue disorders posed by the presence of silicone in the human body and that sufficient epidemiological data or experimental animal data are not available to make a reasonable and fair judgment. Therefore, the agency will require long-term postapproval followup for any testicular prosthesis permitted to continue in commercial distribution. Well-designed clinical prospective studies with long-term followup, together with experimental animal studies, will be considered as essential in the determination of safety and effectiveness of the device. Further, these clinical studies must collect long-term data on the teratogenic/reproductive effects of the device as well as later effects on offspring (from those patients with a unilateral, functional testicle).

FDA recognizes that the primary benefit of testicular prostheses is cosmetic in nature. The effectiveness of the device is probably the maintenance or enhancement of a male's psychological well-being (Refs. 6 and 7), which can be balanced against any illness or injury from the use of the device. FDA understands that evaluation of the degree of benefit involves an assessment of patient satisfaction and psychological well-being, particularly in light of the function of the device. Such evaluation includes subjective factors, relates to patient expectations, and may be transient in nature.

The evaluation parameters for this portion of the clinical study should be structured for an objective and standardized recording/measurement of the psychological benefit of the device. The primary requirements for an acceptable scientific documentation of psychological benefits of the device are the use of: (1) Prospective research designs, including pre-and post-surgical repeated measures; (2) appropriate control/comparison groups; and (3) standardized test instruments rather than informal, yet-validated questionnaires. Documentation of the psychological consequences of testicular implants shall include: (1) Pre-surgical baseline assessment of psychological status; (2) post-surgical followup of any changes in psychological status for at least 5 years, or until physical maturity of the subject (whichever occurs later); (3) statistical comparison of post-surgical psychological test scores versus pre-surgical test scores within the group of treated patients; (4) statistical comparison of psychological test scores of treated patients versus untreated control patients at all pre-surgical and post-surgical assessment intervals; and (5) correlation of the psychological data with the physical outcomes of the implant procedure. The risk/benefit assessment (as with the entire PMA) must rely on valid scientific evidence as defined in 21 CFR 860.7(c)(2) from well-controlled studies as described in 21 CFR 860.7(f) in order to provide reasonable assurance of the safety and effectiveness of the testicular prosthesis in the surgical correction, restoration, or construction of the male scrotal anatomy.

Applicants should submit any PMA in accordance with FDA's "Premarket Approval (PMA) Manual." The manual is available upon request from the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1901 Chapman Ave., Rockville, MD 20852.

III. Request for Comments With Data

FDA is providing a 60-day period for interested persons to submit to the Dockets Management Branch (address above) written comments regarding this proposal and its findings. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Those wishing to make comments are encouraged to discuss all aspects of the proposed findings regarding the: (1) Degree of risk, illness or injury associated with the use of the testicular prosthesis, (2) experimental, animal, and human studies required in a PMA of the device in order to assess its safety and effectiveness, (3) feasibility of these studies within the time permitted by the act, etc., and (4) benefits to the public from the use of the device.

The comments must discuss in detail, for example, the reasons why important new information on the safety and effectiveness of the device could not feasibly be submitted within the time permitted, or why animal studies may not be available to assess long-term effects such as connective tissue disorders, or that carefully designed epidemiological studies may not be available to evaluate the long-term silicone related illnesses, etc.

CDRH staff are available to provide guidance to manufacturers on any proposed laboratory, animal, or epidemiological studies needed in a PMA or PDP.

IV. Opportunity to Request A Change in Classification

Before requiring the filing of a PMA or PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the testicular prosthesis is to be in the form of a reclassification petition containing the information required by § 860.123, including new information relevant to the classification of the device, and shall, under section

515(b)(2)(B) of the act, be submitted by January 28, 1993.

The agency advises that to assure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the testicular prosthesis is submitted, the agency will, by March 15, 1993, after consultation with the appropriate FDA advisory committee and by an order published in the **Federal Register**, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and § 860.130 of the regulations.

V. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

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VI. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect upon the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VII. Economic Impact

FDA has examined the economic consequences of this proposed rule in accordance with the criteria in section 1(b) of Executive Order 12291 and finds that this proposal would not be a major rule as specified in the Order. The agency believes that only a small number of firms will be affected by this proposed rule, and the agency certifies under the Regulatory Flexibility Act (Pub. L. 96–354) that the proposed rule will not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of any final rule based on this proposal has been placed on file in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

VIII. Comments

Interested persons may, on or before March 15, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Interested persons may, on or before January 28, 1993, submit to the Dockets Management Branch a written request to change the classification of the testicular prosthesis. Two copies of any comments or requests are to be submitted, except that individuals may submit one copy. Comments or requests are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Comments are encouraged on all aspects of the proposed findings and the recommended PMA Contents.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 876 be amended as follows:

PART 876—GASTROENTEROLOGY—UROLOGY DEVICES

1. The authority citation for 21 CFR part 876 is revised to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 522, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371).

2. Section 876.3750 is amended by revising paragraph (c) to read as follows:

§ 876.3750 Testicular prosthesis.

* * * * *

(c) Date premarket approval application (PMA) is required. A PMA or notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before (insert date 90 days after the effective date of a final rule based on this proposed rule), for any testicular prosthesis that was in commercial distribution before May 28, 1976, or that has on or before (insert date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to the testicular prosthesis that was in commercial distribution before May 28, 1976. Any other

testicular prosthesis shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: December 22, 1992.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–742 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IA–15–92]

RIN 1545–AQ68

TeleFile Voice Signature Test

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations providing that an individual Federal income tax return completed as part of the TeleFile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. The temporary regulations affect those taxpayers who are eligible to, and elect to, file their individual income tax returns for the 1992 calendar year by telephone under the test. The temporary regulations are needed to implement the test. The text of the temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Comments and requests for a public hearing must be received by March 15, 1993.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (IA–15–92), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Celia Gabrysh (202) 622–4960 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

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

The collection of information requirement in these regulations is in §§ 1.6012–7T and 1.6061–2T. This information is required by the Internal Revenue Service to implement the TeleFile Voice Signature test. The respondents are those eligible taxpayers that choose to file their income tax returns under the test.

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

Estimated total annual reporting burden: 11,667 hours.

The estimated average annual burden per respondent: 7 minutes.

Estimated number of respondents: 100,000.

Estimated annual frequency of responses: once.

Background

The temporary regulations published in the Rules and Regulations portion of this issue of the **Federal Register** add new temporary regulations §§ 1.6012–7T, 1.6061–2T and 1.6065–2T to part 1 of title 26 of the Code of Federal Regulations. The temporary regulations provide that an individual Federal income tax return completed as part of the TeleFile Voice Signature test will be treated as a return that is signed, authenticated, verified, and filed by the taxpayer as required by the Internal Revenue Code. For the text of the new temporary regulations, see T.D. 8468 published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the regulations.

Special Analyses

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

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to an written comments that are submitted timely (preferably an original and eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner of Internal Revenue by any person who also submits timely written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

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

Proposal of Regulations

The temporary regulations (T.D. 8468) published in the Rules and Regulations section of this issue of the **Federal Register**, are hereby also proposed as final regulations under sections 6012, 6061, and 6065 of the Internal Revenue Code of 1986.

Shirley D. Peterson,

Commissioner of Internal Revenue.

[FR Doc. 93–676 Filed 1–12–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Parts 1, 20, and 25

[PS–102–88]

RIN 1545–AM85

Income, Gift and Estate Tax; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Rescheduling of the date of public hearing on proposed regulations; change of date to submit requests to speak and outlines of oral comments.

SUMMARY: This document reschedules the date of the public hearing and changes the date to submit requests to

speak and outlines of oral comments on a notice of proposed rulemaking on Income Tax Regulations relating to income tax imposed under chapter 1, the estate tax imposed under chapter 11 and the gift tax imposed under chapter 12 of the Internal Revenue Code of 1986.

DATES: The public hearing will be held on Friday, April 2, 1993, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Friday, March 12, 1993.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [PS–102–88], room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Mike Slaughter of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of public hearing appearing in the **Federal Register** on Tuesday, January 5, 1993 (58 FR 322), announced among other things, that a public hearing relating to proposed regulations relating to income tax imposed under chapter 1, the estate tax imposed under chapter 11 and the gift tax imposed under chapter 12 of the Internal Revenue Code of 1986 would be held Tuesday, March 2, 1993, beginning at 10 a.m. in the IRS Auditorium, Seventh floor, 7400 corridor, Internal Revenue Building, 1111 Constitution Ave, NW., Washington, DC, and that requests to speak and outlines of oral comments should be received by Tuesday, February 16, 1993. The proposed regulations were published in the **Federal Register** on Tuesday, January 5, 1993 (58 FR 305).

There has been a change in the date of the public hearing, and a change of date to submit requests to speak and outlines of oral comments. The hearing will be held on Friday, April 2, 1993, beginning at 10 a.m. The requests to speak and outlines or oral comments must be received by Friday, March 12, 1993. Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

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

By direction of the Commissioner of Internal Revenue.

Cynthia E. Grigsby,

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

[FR Doc. 93–660 Filed 1–12–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners: Prisoners Transferred to the United States Under Prisoner-Exchange Treaties

AGENCY: United States Parole Commission, Justice.

ACTION: Proposed rule.

SUMMARY: The U.S. Parole Commission is proposing to add to its regulation concerning transfer treaty prisoners a comprehensive interpretation of the relevant federal statutes, with particular regard to the relationship between the "release date" to be determined by the Commission under 18 U.S.C. 4106A, and the "release date" to be determined by the Bureau of Prisons (by calculation of foreign and domestic good time credits) under 18 U.S.C. 4105(c)(1) and 18 U.S.C. 3624(a). The rule is proposed to respond to a recent upsurge of appellate litigation from transfer treaty prisoners seeking to have their good time credits deducted from the "release date" determined by the Commission under 18 U.S.C. 4106A.

DATES: Comments must be received by March 15, 1993.

ADDRESSES: Send comments to Office of General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Richard Preston, Office of General Counsel, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: The U.S. Parole Commission has jurisdiction to determine a release date, and a period of supervised release, for any prisoner transferred to the United States under a prisoner-exchange treaty, who committed a crime in the transferring country on or after November 1, 1987. 18 U.S.C. 4106A(b)(1)(A). Such determinations are based upon the treaty obligation of the United States to carry out the conviction and sentence imposed by the foreign court. Transfer treaty prisoners are additionally entitled to the benefit of any good time credits (or the equivalent) earned in the foreign country. After their transfer to the United States, they also receive the benefit of applicable good time credits under U.S. law. Under 18 U.S.C. 4105(c)(1), these combined good time credits are deducted from the foreign sentence to give the prisoner a "release date" pursuant to 18 U.S.C. 3624 (which assigns that responsibility to the U.S. Bureau of Prisons).

The release date established by the Parole Commission under 4106A is made by reference to the applicable sentencing guideline range, as if the prisoner has been convicted of a "similar offense" under U.S. law. This release date is, in some cases, earlier than the release date established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1). See *Hansen* v. *U.S. Parole Commission*, 904 F.2d 306 (5th Cir. 1990). In other cases, the Parole Commission has determined that the prisoner should serve to the release date established by the Bureau of Prisons under 4105(c)(1), especially in cases where the applicable sentencing guideline range requires as much or more prison time than the foreign sentence (less good time credits) will permit. See *Thorpe* v. *Parole Commission*, 902 F.2d 291 (5th Cir. 1990). Transfer treaty prisoners have the right to appeal the Commission's release date determination to a U.S. Court of Appeals. 18 U.S.C. 4106A(b)(2)(A).

In their appellate litigation, many prisoners have asserted that good time credits required by section 4105(c)(1) should be deducted from the release date set by the Commission under 4106A(b)(1)(A). Some prisoners have also argued that 4106A(b)(1)(A) requires that a mandatory minimum term of supervised release provided for certain drug offenders under U.S. laws must also be applied by the Commission in transfer treaty determinations, resulting in a limit on the period of imprisonment which could be imposed by the Commission.

This appellate litigation is the reason for the proposed interpretative rule that appears below. This rule makes clear the Parole Commission's interpretation that Congress did not intend that good time credits should be deducted from the "release date" determined by the Commission under 4106A. Instead, the Commission's construction of the statutes at 4105 and 4106A is that Congress assigned the U.S. Bureau of Prisons its traditional role of determining a mandatory release date by deducting good time credits from the full term of the sentence, and that it assigned to the Parole Commission its

traditional role of establishing a discretionary release date, pursuant to a guideline range, at any point in the sentence up to (and including) the mandatory release date determined by the Bureau of Prisons.

Furthermore, it is the Commission's interpretation of 4106A(b)(1)(A) that Congress never intended that mandatory minimum sentencing provisions apply, in any request, to transfer treaty cases. *Molano-Garza* v. *U.S. Parole Commission*, 965 F.2d 20, 24–5 (5th Cir. 1992). Thus, guideline provisions promulgated by the U.S. Sentencing Commission solely to accommodate mandatory minimum sentencing laws may not be applied by the Commission in a transfer treaty case.

Finally, the rule makes it clear that a period of supervised release will always extend from the release date set by the Commission to the full term of the foreign sentence unless the applicable treaty permits less than full enforcement of the foreign sentence.

This interpretative rule is being published for public comment because it may be viewed as having some substantive impact upon the rights and entitlements of transfer treaty prisoners under the above statutory provisions.

Executive Order 12291 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a major rule within the meaning of Executive Order 12291. This proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities, within the meaning of the Regulatory Flexibility Act, 5 U.S.C. § 605(b).

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, probation and parole, prisoners.

Accordingly, the U.S. Parole Commission proposes the following amendment to 28 CFR part 2.

The Proposed Amendment

(1) The authority citation for 28 CFR part 2 continues to read as follows:

Authority. 18 U.S.C. 4203(a)(1) and 4204 (a)(6).

(2) 28 CFR part 2, § 2.62 is proposed to be amended by adding the following new paragraph (l):

§ 2.62 Prisoners transferred pursuant to treaty.

* * * * *

(l) Statutory interpretation. (1) It is the Commission's interpretation of 18 U.S.C. 4106A that every transfer treaty prisoner is entitled to a release date determined by the Commission in accordance with the applicable sentencing guideline range, and that upon release from imprisonment the transferee must serve a period of supervised release extending to the full term of the sentence imposed by the foreign court. However, if the applicable treaty allows the Commission to limit the period of supervised release to the maximum term specified at 18 U.S.C. 3583(b), the combined period of imprisonment and supervised release may be less than the full term of the foreign sentence.

(2) The applicable sentencing guideline range is determined by selecting the offense in the U.S. Code that is most similar to the offense for which the transfer treaty prisoner was convicted in the foreign court, and by using that U.S. Code offense as the basis for calculating a guideline range as though the prisoner has been convicted of that offense in a U.S. District Court. In so doing, the Commission considers itself required by law and treaty to respect the offense definitions contained in the foreign criminal code under which the prisoner was convicted, as well as the documentation supporting that conviction supplied by the foreign court.

(3) The release date that is determined by the Parole Commission under section 4106A(b)(1)(A) is a prison release determination and does not represent the imposition of a new "sentence" for the transfer treaty prisoner. (Nor does the Commission impose a "term of supervised release" as described in 18 U.S.C. 3583.) Because good time credits are only deducted from the prisoner's sentence under 18 U.S.C. 4105(c)(1), good time credits are not deducted from the release date set by the Commission under section 4106A. All foreign and domestic good time credits earned by the transfer treaty prisoner are deducted by the Bureau of Prisons from the full term of the sentence imposed by the foreign court, pursuant to 18 U.S.C. 4105(c)(1) and 18 U.S.C. 3624(a).

(4) If the Commission has set a release date under section 4106(b)(1)(A) that is earlier than the mandatory release date under section 4105(c)(1), then the release date set by the Commission controls. The Commission may, however, determine that the appropriate release date for the prisoner under section 4106A(b)(1)(A) is the mandatory release date earned by application of good time credits from the full term of the foreign sentence, under section 4105(c)(1), if such a decision is found warranted by analogy to U.S.S.G. 5G1.1(a). In such a case, the Commission will order "continue to expiration." If good time credits result in mandatory release date that is earlier than the release date set by the Commission under section 4106A(b)(1)(A), then the mandatory release date controls. Whether the prisoner is released on the date set by the Commission under section 4106A, or on the mandatory release date set by the Bureau under section 4105 and section 3624, the prisoner must complete the remainder of his foreign sentence on supervised release unless the Commission expressly provides otherwise.

(5) It is the Commission's interpretation of section 4106A that sentencing guideline provisions implementing U.S. Code requirements for mandatory minimum sentences and terms of supervised release do not apply in a section 4106A(b)(1)(A) release date determination. Alternatively, it is the Commission's position that there is "good cause" in every transfer treaty case for a departure from any applicable mandatory minimum sentence provision in the sentencing guidelines, including U.S.S.G. § 5G1.1(b), because Congress did not enact mandatory sentence laws with transfer treaty offenders in mind. Thus, in every transfer treaty case, the release date will be determined through an exercise of Commission discretion, according to the sentencing guideline range that is derived from a case-specific "similar offense" determination, rather than by reference to any provision concerning mandatory minimum sentences of imprisonment or terms of supervised release.

* * * * *

Dated: December 8, 1992.

Jasper R. Clay, Jr.,

Vice Chairman, U.S. Parole Commission.

[FR Doc. 93–688 Filed 1–12–93; 8:45am]

BILLING CODE 4410–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 126

[CGD 92–026]

RIN 2115–AE022

Handling of Explosives or Other Hazardous Materials Within or Contiguous to Waterfront Facilities

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a major revision to the regulations in 33 CFR part 126 that govern the handling of break-bulk, containerized, and dry bulk hazardous materials on waterfront facilities. Part 126 was written in the 1950's and does not necessarily take into account modern transportation methods. Comments are sought on the changes needed to update these regulations, including the extent to which current industry standards may be appropriate for incorporation.

DATES: Comments must be received on or before April 13, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council, (G–LRA/3406) (CGD 92–026), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Gary W. Chappell, Office of Marine Safety, Security, and Environmental Protection (G–MPS–3), (202) 267–0491.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this early stage of rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 92–026) and the specific section of this notice to which each comment applies, and give the reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period, before it acts further on this rulemaking. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Mr. Gary W. Chappell, Project Manager, and Mr. Donald W. Faleris, Project Counsel, Office of Chief Counsel.

Background

The scope of part 126 has been the subject of two related rulemaking projects. One of those projects (CGD 86–034) has been completed and became effective on October 4, 1990. That rulemaking amended part 126 to remove its applicability to all bulk liquid hazardous materials other than 17 specified liquefied gasses. It also relocated to 33 CFR part 154 the regulations governing liquid bulk hazardous materials.

An ANPRM for the second regulatory project (CGD 88–049) was published and a NPRM is being drafted. Among other things under consideration are amendments to part 126 so that it will no longer apply to liquefied gasses in bulk. Also under consideration are amendments to delete from part 126 the requirements for liquid cargo transfer systems, currently contained in § 126.15(o). If the changes under consideration for this second regulatory project are implemented, regulations governing liquefied hazardous gasses handled in bulk will be located in 33 CFR part 127.

Purpose

The proposal set forth in this advance notice of proposed rulemaking would amend the regulations in 33 CFR part 126 which set safety precautions for the handling of explosives and other hazardous materials within or contiguous to waterfront facilities. Part 126 would prescribe specific standards and procedures pertaining to break-bulk, containerized, and dry bulk hazardous materials. Since the part 126 regulations were written in the 1950's and have not been substantially updated, they would be revised to better reflect today's transportation methods, practices, and industry standards. Appropriate industry standards would be incorporated into the regulations. Existing provisions of part 126 would also be modified to ensure consistency with new provisions. This would improve regulatory coherence and clarity.

Approach

By limiting the scope of part 126 to packaged and dry bulk hazardous materials, updating requirements, and incorporating industry standards where appropriate, this proposal would better address the hazards and precautions for these hazardous materials, particularly containerized materials.

The Coast Guard is considering different approaches for regulating the handling of packaged and dry bulk hazardous materials in and contiguous to waterfront facilities. One option would require waterfront facilities handling such hazardous materials to prepare and maintain operations manuals similar to the manuals required for waterfront facilities handling liquid bulk hazardous materials. Although these manuals need not be as comprehensive as those for bulk liquid facilities, they would serve two important functions. First, the operations manual would let the Coast Guard Captain of the Port (COTP) know where hazardous materials are being handled in the port. Currently, a waterfront facility handling only packaged and dry bulk hazardous materials is not required to notify the COTP of its intent to operate. Without knowing where hazardous materials are being handled, the COTP cannot monitor operations or plan responses to hazardous material releases. Second, the operations manual would set forth procedures for safely handling hazardous materials and for responding to fires or hazardous material releases. These procedures would protect facility employees, the public, and the environment.

Another option would require waterfront facilities handling packaged and dry bulk hazardous materials to comply with National Fire Protection Association (NFPA) Standard 307. NFPA 307 was developed by a committee representing both industry and government interests, and became effective on August 17, 1990. This standard establishes fire protection design specifications and operating procedures for piers, wharves, terminal buildings, and terminal yards on waterfront facilities. It has been adopted, and is being enforced, by many local governments. Therefore, incorporating NFPA 307 by reference into the regulations contained in part 126 would enhance the uniformity of Federal and local standards.

Regulatory Evaluation

At this early stage of the rulemaking process, the Coast Guard anticipates that any final rule will not be considered major under Executive Order 12291, or significant under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Most of the new requirements

would follow industry standards and therefore should not impose a significant cost burden. Some changes, such as pier or wharf construction requirements, could have a considerable economic impact on some facilities. A few facilities may benefit from regulatory changes to the stacking height requirements, which would allow more efficient storage of cargo. However, because regulations have not yet been drafted, and alternative approaches to regulation are being considered, the exact extent of any of these impacts cannot be analyzed at this time. The Coast Guard has taken steps to prepare an economic impact study to assist in evaluating the effects of different regulatory approaches. This information will be used, together with public comments received on this proposal, to prepare a Regulatory Evaluation to assess any economic impacts under Executive Order 12291 and the Department of Transportation's Regulatory Policies and Procedures, given the regulatory approach eventually undertaken.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

At this time, the Coast Guard does not anticipate that this proposal would have more than a minimal impact on any small entity since few small entities own or operate waterfront facilities that would be affected by this rulemaking. If, however, you think that your business qualifies as a small entity and that this proposal may have a significant economic impact on your business, please submit a comment (see "ADDRESSES") explaining why you think your business qualifies and in what way and to what degree this proposal could economically affect your business.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other similar requirements.

If rules are developed, this proposal may require operators of waterfront facilities to establish and maintain records and operations manuals which detail the facility's procedures and activities relative to handling packaged or dry bulk hazardous materials. However, the Coast Guard is considering a number of alternative approaches to regulation, some of which may not contain collection of information requirements. Therefore, the exact nature of those requirements, if adopted, is not known at this time. Consequently, an estimate of the potential information collection burden, if any, is not yet possible. Persons are encouraged to submit comments on the advisability and potential impact or burden which may result from requiring waterfront facilities to (1) prepare and maintain operations manuals, including policies and procedures relative to handling explosives and other hazardous materials and (2) maintain records on an ongoing basis which detail the hazardous material handling activities of the facility.

Federalism

Given the alternative approaches being considered by the Coast Guard at this time, any rules developed under this proposal are not expected to have sufficient federalism implications to warrant the preparation of a Federalism Assessment in accordance with the principles and criteria contained in Executive Order 12612. States and political subdivisions are not preempted from prescribing safety equipment requirements or safety standards with respect to structures. Thus, if regulations developed under this proposal incorporate existing NFPA or other industry standards which have been adopted and are already enforced by State or local governments, uniformity between Federal and local standards would be enhanced. If, however, you think that this proposal may have federalism implications for State and local governments, please submit a comment (see "ADDRESSES") explaining why you believe this to be so, and in what way and to what degree you think that this proposal would have significant federalism implications.

Environment

The Coast Guard expects any new requirements for packaged and dry bulk hazardous materials would not have a significant effect on the environment, although increased regulation, if undertaken, should promote safe handling of hazardous materials and better preparation of responses to hazardous materials releases, thus better protecting the environment. If rules are developed, the Coast Guard will prepare an Environmental Assessment which will address potential impacts of the rulemaking.

Questions

The Coast Guard is soliciting input from the public regarding all of the options and issues set forth in this advance notice of proposed rulemaking. Comments pertaining to regulatory impacts, such as administrative and economic burdens, paperwork burdens, federalism impacts, and environmental impacts, are encouraged. Suggestions for other possible approaches are also welcome. Specific responses to the following questions will assist in evaluating this proposal and developing a notice of proposed rulemaking:

(1) Do you see a need for updating the current regulations in 33 CFR part 126 for packaged and dry bulk cargoes? If so, what requirements should be changed?

(2) How do these regulations currently impact you or your business?

(3) Do you see a need for reducing the burden that these regulations impose on you or your business? What burdens should be reduced?

(4) Do you see a need for increased safety during the handling of packaged and dry bulk hazardous materials? What hazards need to be addressed?

In addition to the above general and specific comments on this proposal, the Coast Guard requests specific responses to the following questions to assist in evaluating this proposal and developing a notice of proposed rulemaking, if appropriate:

(1) Do waterfront facilities currently regulated under part 126 typically consist of contiguous or noncontiguous land or structures? If noncontiguous, are the noncontiguous areas enclosed by fences or other barriers? How are the noncontiguous portions separated from the contiguous portions?

(2) How far from the water is the most distant noncontiguous land or structure currently regulated under part 126?

(3) Part 126 currently contains a definition of "waterfront facility" which includes all piers, wharves, docks, and similar structures to which a vessel may be secured; areas of land, water, or land and water under and in immediate proximity to them; buildings on such structures or contiguous to them; and equipment and materials on such structures or in such buildings. It does not include facilities directly operated by the Department of Defense. Is this definition sufficiently clear to enable a person to determine whether part 126

applies to a facility? What problems, if any, have you encountered in applying or interpreting this definition? What parameters, if any, should be established under a more detailed definition of waterfront facility in order to arrive at a practical, useful definition?

(4) If the definition of waterfront facility is in need of clarification, the Coast Guard may consider establishing a definition which specifically includes noncontiguous land and structures. Such a definition may define the term "noncontiguous" (*e.g.*, a roadway, railway, public utility right-of-way, or other natural or man-made division with certain characteristics). What factors should determine whether noncontiguous portions of land or structures are considered to be part of a waterfront facility?

(5) Are you aware of any other Federal agency asserting similar regulatory authority over all or any portion of your facility?

(6) Is NFPA Standard 307 appropriate for incorporation into regulations governing waterfront facilities that handle packaged and dry bulk hazardous materials? Do you know of other industry standards that should be incorporated, in whole or in part?

Dated: January 6, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93–792 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 162

[CGD9 93–01]

Temporary Amendment to Inland Waterways Navigation Regulations Establishing Speed Limits on Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commander, Ninth Coast Guard District, proposes to make a temporary amendment to the inland waterways navigation regulations at 33 CFR 162.138 establishing speed limits on connecting waters from Lake Huron to Lake Erie in order to allow nondisplacement power vessels less than 100 gross tons to exceed the normal speed limits, when approval for each transit is granted by the Coast Guard Captain of the Port, during the 1993 season. This temporary amendment is necessary to prevent an undue restriction on commerce, but will only be invoked by the Coast Guard Captain of the Port when he determines that no undue risk to safety will result.

DATES: Comments must be received on or before March 1, 1993.

ADDRESSES: Comments and supporting materials should be mailed or delivered to the Chief of the Ninth Coast Guard District Marine Port & Environmental Safety Branch, room 2069, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994. Please reference the name of the proposal and the docket number in the heading above. If you wish receipt of your mailed comment to be acknowledged, please include a stamped self-addressed envelope or postcard for that purpose. Comments and materials received will be available for public inspection at the above location from 9 a.m. to 3 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Captain Dennis W. Cleaveland, U.S. Coast Guard, Chief of the Ninth Coast Guard District Marine Port & Environmental Safety Branch, room 2069, 1240 East Ninth Street, Cleveland, Ohio, 44199–2060, (216) 522–3994.

SUPPLEMENTARY INFORMATION: The Coast Guard encourages interested persons to participate in this rulemaking by submitting comments which may consist of data, views, arguments, or proposals for amendments to the proposed regulations. The Coast Guard does not currently plan to have a public hearing. However, consideration will be given to holding a public hearing if it is requested. Such a request should indicate how a pubic hearing would contribute substantial information or views which cannot be received in written form. If it appears that a public hearing would substantially contribute to this rulemaking, the Coast Guard will announce such a hearing by a later notice in the **Federal Register**. The Coast Guard will consider all comments received before the closing date indicated above, and may amend or revoke this proposal in response to such comments.

Drafting Information

The drafters of these regulations are Captain Dennis W. Cleaveland, U.S. Coast Guard, project officer, Ninth Coast Guard District Marine Port & Environmental Safety Branch, and Commander M. Eric Reeves, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

Current regulations in 33 CFR 162.138 which apply to connecting waters from Lake Huron to Lake Erie set maximum speed for vessels 20 meters or more in length at limits ranging from 4 to 12 statute miles per hour in various areas. One of the purposes of these speed regulations is to limit wake damage, and they were not written to account for the substantially lesser wake generating characteristics of nondisplacement vessels. In fact, certain vessels designed for nondisplacement operation would generate larger wakes at these speeds because they would therefore be forced to operate in a displacement mode. Also, the current regulations were not written with consideration for the different operating characteristics of nondisplacement vessels. The Commander of the Ninth Coast Guard District proposes to temporarily amend these regulations in order to allow trial runs of nondisplacement vessels which have requested permission to operate in the area. The period for trial runs would be April through November of 1993. Because this is a new form of operation and because there are other safety considerations when a vessel is operating at a high speed, the Commander of the Ninth Coast Guard District is proposing to set an upper limit of 40 statute miles per hour and the higher speeds will only be allowed when authorized on a case by case basis, for each proposed transit of the area, by the Coast Guard Captain of the Port. Case by case approval is also necessary in order to allow for coordination with Canadian and local officials.

Federalism Implications

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the proposed rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This amendment does not impose any new regulatory requirements in an area not heretofore regulated by the Federal Government, and does not impose any requirements or restrictions on State or local authorities.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that, under section 2.B.2.c of the Coast Guard Commandant Instruction M16475.1B, they are categorically excluded from further environmental documentation.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of

Transportation regulatory policies and procedures (44 FR 11034 of February 26, 1979). The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. In fact, the Coast Guard is making this amendment in part in order to avoid causing the existing regulations to have an unintended economic impact on a new mode of commercial operation. Since the impact of this regulation is expected to the minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

These regulations will impose no collection of information requirements under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 33 CFR Part 162

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 162 of title 33, Code of Federal Regulations as follows:

PART 162 [AMENDED]

1. The authority citation for part 162 is temporarily amended to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46, 33 CFR 162.134(d), and 33 CFR 162.138(b).

2. A temporary § T162.139 is added as follows:

§T162.139 Nondisplacement Vessels under 100 gross tons.

(a) Notwithstanding §§ 162.134 and 162.138(a), nondisplacement vessels 20 meters or more in length but under 100 gross tons may operate in the nondisplacement mode at speeds not more than 40 miles per hour, and may overtake other vessels, when conditions otherwise safely allow and approval is granted by the Coast Guard Captain of the Port or District Commander prior to each transit of the area. Except for provisions on overtaking other vessels, the provisions in § 162.134 continue to apply.

(b) This section becomes effective on April 1, 1993 and terminates on November 30, 1993.

Dated: December 16, 1992.

G.A. Penington,

Rear Admiral, USCG, Commander, Ninth Coast Guard District.

[FR Doc. 93–790 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300258; FRL–4077–1]

RIN 2070–AC18

Revocation of Exemption from Requirement of a Tolerance for Certain Inert Chemicals in Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to revoke exemptions from the requirement of a tolerance for residues of seven pesticidally inert ingredients in or on raw agricultural commodities (RAC's). EPA is initiating this action because the data base for these inerts is so deficient that EPA cannot conclude that a tolerance is not necessary to protect the public health.

DATES: Written comments, identified by the document control number [OPP-300258], must be received on or before March 15, 1993.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Melissa L. Chun, Registration Support Branch (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 718, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, 703-305-6354.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (FFDCA), EPA establishes tolerances (maximum legal residue levels) or exemptions from the requirement of a tolerance for pesticide residues in food. Pesticide products are usually made up of one or more pesticidally active ingredient(s) and one or more ingredient(s) which are not intended to be pesticidally active (such as solvents) which are known as inerts.

In the **Federal Register** of April 22, 1987 (52 FR 13305), EPA issued a notice which announced certain policies designed to reduce the potential for adverse effects from the use of pesticide products containing toxic inert ingredients. In developing this policy, the Agency has categorized inert ingredients into the following four lists according to toxicity: List 1—Inerts of toxicological concern; List 2—Potentially toxic inerts, with high priority for testing; List 3—Inerts of unknown toxicity; List 4—Inerts of minimum concern.

Based on a review of the toxicity information on chemicals used as inert ingredients in registered pesticide formulations, the Agency concluded that some inert ingredients have been shown to have significant toxicity. The criteria used to place chemicals on List 1 were carcinogenicity, adverse reproductive effects, neurotoxicity or other chronic effects, developmental toxicity (birth defects), ecological effects, or the potential for bioaccumulation.

Any registrant who retains an inert ingredient on List 1 in his or her registered product(s) must submit data to support continued use. The Agency conducted a Data Call-In in April 1988 and March 1989 to require that the registrants of List 1 inerts provide the Agency with needed data under section 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. These data included chronic toxicology, product chemistry, residue, and environmental fate data and are necessary to support the continued registration of product(s) containing the above-noted inert ingredients.

Registrants who failed to respond or responded improperly were sent Notices of Intent to Suspend (NOITS) for products containing the inert ingredients.

Exemptions from tolerances currently exist for seven List 1 inerts: chloroform, epichlorohydrin, ethylene dichloride, hexane, methyl chloride, perchloroethylene, and propylene oxide. The data base for these inerts is so deficient that EPA cannot conclude that a tolerance is not necessary to protect the public health. This

document proposes to revoke exemptions for each of these inerts.

The Agency is not recommending the establishment of action levels in place of these exemptions from tolerance. In response to the Data Call-In, the registrants of several products containing chloroform, epichlorohydrin, and perchloroethylene canceled their product registrations. The remaining products were either reformulated (ethylene dichloride, hexane, perchloroethylene, propylene oxide) or the product registrations were suspended due to failure to respond to the Data Call-Ins (epichlorohydrin, hexane, methyl chloride, perchloroethylene, and propylene oxide). Since these inerts have been eliminated from products or the product registrations have been canceled or suspended, there is no legal sale or distribution in the United States. Furthermore, since sufficient time has elapsed in order for the residues to dissipate, residues should not appear in any domestically produced commodities. EPA requests that interested persons submit information pertaining to whether these inerts are used in foreign countries and may be present in commodities grown in those countries and imported to the United States.

The exemptions from tolerance, listed in 40 CFR part 180, being proposed for revocation are as follows: § 180.1001(c)—hexane, methyl chloride, perchloroethylene, and propylene oxide; § 180.1001(d)—chloroform, epichlorohydrin, ethylene dichloride (1,2-dichloroethane), and hexane (including isomeric hexanes); § 180.1001(e)—ethylene dichloride (1,2-dichloroethane), perchloroethylene, and propylene oxide.

Simultaneously with this proposal, EPA is informing the member countries of the Codex Alimentarius Commission and other countries of its proposed revocation action so that those who might be affected are afforded the opportunity to comment on the proposed action.

Within 30 days after publication of this document in the **Federal Register**, any person who has registered or submitted an application for registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, which contains these inert ingredients may request that this rulemaking proposal to revoke the tolerance exemptions for these inert ingredients be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300258]. All written comments filed in response to this notice will be available in the Public Information Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Executive Order 12291

In order to satisfy requirements for analysis as specified by Executive Order 12291, the Agency must determine whether a proposed regulatory action is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

The proposed regulatory action has been reviewed by the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164; 5 U.S.C. 601 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

This regulatory action is intended to prevent the sale of food commodities containing pesticide residues only where the subject pesticides have been used in an unregistered or illegal manner.

Since all products containing these inerts have been canceled, suspended, or reformulated without these inerts in response to Data Call-Ins in 1988 and 1989, there should be no further use of products containing these inerts. Furthermore, sufficient time has elapsed for residues of these inerts to dissipate. Therefore, the Agency does not expect any impact or costs on users or business enterprises of any size as a result of revoking these exemptions from the requirement of tolerances for these inerts.

Accordingly, I certify that this proposed regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 29, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371.

2. In § 180.1001(c), (d), and (e) tables by removing the following entries, as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * * * *		
Hexane [Removed]	[Removed]	[Removed]
* * * * * * *		
Methyl chloride [Removed]	[Removed]	[Removed]
* * * * * * *		
Perchloroethylene [Removed]	[Removed]	[Removed]
* * * * * * *		
Propylene oxide [Removed]	[Removed]	[Removed]

Inert ingredients	Limits	Uses
* * *	* * *	* * *

(d) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Chloroform [Removed]	[Removed]	[Removed]
* * *	* * *	* * *
Epichlorohydrin [Removed]	[Removed]	[Removed]
Ethylene dichloride (1,2-dichloroethane) [Removed]	[Removed]	[Removed]
* * *	* * *	* * *
Hexane (including isomeric hexanes) [Removed]	[Removed]	[Removed]
* * *	* * *	* * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Ethylene dichloride (1,2-dichloroethane) [Removed]	[Removed]	[Removed]
* * *	* * *	* * *
Perchloroethylene [Removed]	[Removed]	[Removed]
* * *	* * *	* * *
Propylene oxide [Removed]	[Removed]	[Removed]
* * *	* * *	* * *

[FR Doc. 93-376 Filed 1-12-93; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 372

[OPPTS-400068; FRL-4078-4]

Di-n-Octyl Phthalate; Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a petition to delete di-n-octyl phthalate (CAS Number 117-84-0) from the list of toxic chemicals subject to reporting under section 313 of the Emergency Planning and Community Right-To-Know Act (EPCRA) of 1986. EPA believes that this chemical satisfies the statutory criterion for delisting and therefore should not be included on the list.

DATES: Written comments on this proposed rule should be submitted by March 15, 1993.

ADDRESSES: Written comments should be submitted in triplicate to: OPPT Docket Clerk, TSCA Public Docket Office (TS-793), Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460, Attn: Docket Number OPPTS-400068.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, Emergency Planning and Community Right-To-Know Information Hotline, Environmental Protection Agency, Mail Stop OS-120, 401 M St., SW., Washington, DC 20460, Toll free: 800-535-0202.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This proposal is issued under section 313(d) and (e)(1) of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023). EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using toxic chemicals to report their environmental releases and off-site transfers of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (42 U.S.C. 13106). EPCRA section 313 establishes an initial list of toxic chemicals that is comprised of more than 300 chemicals and 20 chemical categories. Any person may petition EPA to add chemicals to or delete chemicals from the list.

EPA issued a statement of petition policy and guidance in the Federal Register of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. EPCRA section 313(e) requires EPA to respond to petitions within 180 days either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

II. Description of the Petition

On January 28, 1992, EPA received a petition from Vista Chemical Company of Houston, Texas, to delist di-n-octyl phthalate (DnOP; also known as n-dioctyl phthalate) from the list of toxic chemicals under section 313 of EPCRA.

The petitioner addressed the following topics: physical and chemical properties, production and use patterns, releases, and concentration levels beyond the facility; the current regulatory status of DnOP; the basis of delisting authority; and DnOP toxicity, including acute and chronic health and environmental effects. The petitioner concludes that DnOP should be deleted from the EPCRA section 313 list because it does not meet any of the criteria for inclusion in the section 313 list of toxic chemicals. The petitioner also states that DnOP is not known and cannot reasonably be anticipated to cause significant adverse effects on human health or the environment. Further, the petitioner contends that there are other equally innocuous phthalate esters of similar structure produced in larger quantities which are not on the EPCRA section 313 list, and this puts DnOP producers at an undue commercial disadvantage.

III. Regulatory Status of DnOP

DnOP is designated as a hazardous substance under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA; 42 U.S.C. 9602). The reportable quantity (RQ) for DnOP is currently set at 5,000 lbs (40 CFR 302.4). This is the maximum value defined under CERCLA for triggering release reporting to Federal, State, and local authorities. In addition, discarded products, off-specification species, container residues, and spill residues of DnOP are regulated as hazardous waste U107 under the Resource Conservation and Recovery Act (RCRA).

DnOP is on the Priority Pollutant List (PPL) of section 307 of the Clean Water Act (33 U.S.C. 1317). The other phthalate esters on the EPCRA section 313 list (butyl benzyl phthalate, di-n-butyl phthalate, di-2-ethylhexyl phthalate, dimethyl phthalate, and diethyl phthalate) are also on the PPL. Insufficient data preclude the derivation of ambient water quality criteria for DnOP by the Agency.

This petition does not request that any action be taken under any statute other than EPCRA, and today's proposal should not be inferred as a proposed action under any statute other than EPCRA. Each statute prescribes different standards for adding or deleting chemicals or pollutants from their respective list. Specifically, the deletion of DnOP from the EPCRA section 313 list does not preclude its continued regulatory status under other environmental statutes. Today's proposal is based solely on the criteria in EPCRA section 313.

IV. EPA's Review of DnOP

The technical review of the petition to delete DnOP covers the chemistry, health and environmental effects, production and use, environmental release, and environmental fate of DnOP. EPA reports prepared in support of this proposal include "Di-n-Octyl Phthalate Exposure Report for Delisting Petition" (Ref. 1), "Hazard Assessment of Di-n-Octyl Phthalate (DnOP) in Response to Delisting Petition of Vista Chemical Company" (Ref. 2), "Final Economics Report for TRI Delisting of DnOP" (Ref. 3), and "Chemistry Report on Di-n-Octyl Phthalate" (Ref. 4). These reports, which are cited in Unit VIII of this proposal, contain lists of references that were used in their preparation.

A. Chemistry

DnOP is a linear dioctyl ester of phthalic acid. It is a colorless, odorless, oily liquid with a low melting point (-25 °C), a high boiling point (estimated to be 390 to 420 °C at 760 torr based on measured boiling points at reduced pressure), and low volatility (The vapor pressure of DnOP is estimated to be 10^{-6} to 10^{-7} torr at 25 °C based on boiling points at reduced pressures).

Information on DnOP and related chemicals is often commingled and misidentified. For example, the physical data and Toxic Release Inventory (TRI) releases and transfers of DnOP's branched isomer, di-(2-ethylhexyl) phthalate (DEHP), the largest volume plasticizer commonly used in polyvinyl chloride (PVC), are often mistakenly reported as DnOP. Both DnOP and DEHP are often referred to as dioctyl phthalate (DOP) in the literature and in industry (as is diisooctyl phthalate; DIOP). Thus, DOP can be used to indicate any of the eight-carbon side-chain containing phthalates: DnOP, DEHP, or DIOP. The petition submitted by the Vista Chemical Company, and this proposed rule, address only DnOP.

DnOP has a very low water solubility, but it is highly soluble in certain organic solvents and oils. Measured values for the aqueous solubility of DnOP range from 50 milligrams per liter (mg/L) to 0.020 mg/L, with estimated values ranging as low as less than 0.001 mg/L. Considering the methodological problems in many of the water solubility studies (i.e., older methods tended to give overestimated values for the solubility of DnOP), EPA believes that the measured value of 0.020 mg/L is more likely to approximate the true solubility of DnOP than higher measured values.

Phthalate esters undergo step-wise hydrolysis to the monoester and then to the dicarboxylic acid, phthalic acid. The hydrolysis is catalyzed by acid or base. For phthalate esters, acid hydrolysis at pH 4 to 6 is generally estimated to be slower than alkaline hydrolysis at pH 8 to 10. Neutral hydrolysis is too slow to measure. Some estimated half-lives for the hydrolysis of DnOP at various pH's are shown in Table 1 below (Ref. 4):

Table 1.—Hydrolysis Half-Lives for DnOP at Various pH's (estimated)

Acid/Base Hydrolysis at 30 °C:	
pH	Half-life, days (estimated)
1	7
4	7,220
7	22,315
8	2,238
10	22

B. Toxicological Evaluation

Toxicological data on the health and environmental effects of DnOP were obtained from information submitted with the petition, from articles retrieved from the literature, and from Agency documents. These data were reviewed with respect to the statutory criteria (EPCRA section 313(d)(2)(A), (B), and (C)). Specifically, the data were reviewed for evidence indicating absorption and metabolism, acute toxicity, liver and kidney toxicity, immunotoxicity, carcinogenicity, mutagenicity, developmental and reproductive toxicity, neurotoxicity, and environmental effects (Ref. 2).

1. *Absorption and metabolism.* Phthalic acid esters are expected to be readily absorbed from the gastrointestinal tract, well absorbed (about one-third of exposure concentration) from the lung, and poorly absorbed from the skin. Based on data from other phthalate esters, DnOP is expected to be rapidly metabolized to the monoester in the intestine and the liver. The n-octyl side chain of the monoester is expected to undergo a variety of oxidations. In general, phthalic acid esters and their metabolites distribute primarily to the liver, kidneys, fat, and gastrointestinal tract, but they are not retained for long in the body. The esters and their metabolites are rapidly excreted, mainly in the urine.

2. *Acute toxicity.* DnOP exhibits very low acute toxicity to animals. The rat oral LD_{50} values are greater than 13 g/kg, and mouse acute oral LD_{50} values are greater than 6.5 g/kg. The acute dermal LD_{50} value is greater than 5 g/kg for guinea pigs. DnOP is slightly irritating to rabbit eyes but not to rabbit skin.

Data on human exposure indicate that DnOP is irritating to mucous

membranes and eyes but not to the skin. Mild contact dermatitis or hypersensitivity reactions have been reported among workers exposed dermally to phthalate ester mixtures; however, human dermal patch testing of DnOP showed no irritation or sensitization. The oral lethal dose for DnOP in humans has been reported to range from 0.5 to 15 grams per kilogram (g/kg) for a 70 kg adult.

3. *Liver toxicity.* Several subchronic studies, from 14 days to 14 weeks duration, indicate that DnOP is hepatotoxic to rats and mice at high dose levels (1.0 to 7.5 g/kg) by the oral route.

4. *Kidney toxicity.* Limited subchronic (14-week) data on the nephrotoxicity of DnOP in rodents imply that the compound may be toxic to the kidney, but only at high doses (0.3 g/kg intraperitoneally (ip) or 7.5 g/kg in the diet).

5. *Immunotoxicity.* The results of two rat studies are inadequate to evaluate the immunotoxic potential of DnOP. The methods were not presented in sufficient detail to allow comparison with standard procedures, quantitative data were not presented, there appear to be large variances associated with some of the means, and the positive control did not demonstrate all the immunosuppressant effects reported in the peer-reviewed literature. Thus, these studies provide suggestive, but not definitive, evidence of immunotoxicity in rats at high doses (0.60, 5.0, and 10.0 g/kg) by ip injection over periods of 5 days or 45 to 90 days.

6. *Carcinogenicity.* There are no epidemiological studies or long-term animal carcinogenicity assays of DnOP to permit an evaluation of the oncogenicity of the chemical to humans. Data on structure-activity relationships, chronic toxicity, and genotoxicity do not provide sufficient evidence that one may reasonably anticipate that DnOP will cause cancer in humans.

7. *Mutagenicity.* DnOP was not mutagenic in several short-term assays with or without metabolic activation.

8. *Developmental and reproductive toxicity.* The results of several studies, conducted at doses of 2 to 7.5 g/kg in mice and 3 to 10 g/kg in rats, show that DnOP has a very low potential to cause developmental or reproductive toxicity in laboratory animals. In one study, pregnant rats were dosed ip with DnOP at 5 or 10 g/kg on gestation days 5, 10, and 15. DnOP did not appear to be embryotoxic, even at 10 g/kg. Several of the resulting fetuses had gross abnormalities. Skeletal abnormalities were not observed. Thus, DnOP produced developmental effects only at extremely high doses. A reproductive toxicity study with mice fed diets containing about 2 to 7.5 g/kg DnOP per day was negative.

9. *Neurotoxicity.* Available data are inadequate to assess the neurotoxicity of DnOP fully. Two studies of workers imply that phthalate ester mixtures may be neurotoxic at workplace levels (1 to 60 milligrams per cubic meter (mg/m^3); concentration of DnOP not known). Limited animal neurotoxicity studies in the literature imply that DnOP may be neurotoxic, but at high doses (ca. 1.8 to 12 g/kg). All of these studies are severely limited and are inadequate for hazard assessment under EPCRA section 313. All suffer from a lack of complete reporting of data, and in several studies it is not clear as to which isomer, DnOP or DEHP, was present or tested. There are no additional supporting neurotoxicity data on DnOP in humans and no indication of neurotoxic effects in other available animal studies of DnOP.

10. *Environmental effects.* Based on available information, DnOP is not likely to have adverse effects on aquatic organisms at its aqueous solubility limit during acute and chronic exposures (undissolved material is not bioavailable by passive diffusion through external membranes). Effect concentrations reported in the petition are in excess of DnOP's aqueous solubility limit. When dialkyl phthalates analogous to DnOP were tested at their aqueous solubility limits, there were no toxic effects to environmental organisms.

Based on information from other dialkyl phthalates, DnOP is expected to bioconcentrate in aquatic organisms and be transported up the food chain; however, dispersion rather than biomagnification is likely to occur as the compound becomes incorporated into organisms higher up the food chain. That is, as DnOP is transported up the food chain, residues should become smaller rather than larger since organisms with more diverse and specialized metabolic pathways are more likely to metabolize the compound than are organisms lacking advanced pathways.

DnOP biodegrades under aerobic conditions. It is persistent under anaerobic conditions. Due to its persistence and hydrophobicity, DnOP is expected to accumulate in sediments. However, DnOP is not expected to be bioavailable because it strongly sorbs to sediments.

C. Production, Use, Releases, and Environmental Fate

1. *Production and use.* DnOP is manufactured as a component of mixed phthalate esters (linear chain C_6, C_8, and C_{10}) by three U.S. companies: Aristech Chemical Corporation, Teknor Apex Company, and Vista Chemical Company in a total of 14 to 15 million pounds annually. Teknor Apex Company produces a n-octyl, n-decyl phthalate ester which contains DnOP. The production volume of DnOP is roughly 5 percent of the production volume of DEHP. In general, DnOP is manufactured by heating an excess mixture of normal alcohols with phthalic anhydride in the presence of a catalyst to form a mixture of esters.

The chemical has many applications, the most important of which is its use as a plasticizer in the plastic and resin materials industry. It is a plasticizer for cellulose ester resins, polystyrene resins, and, primarily, PVC. Plasticizers are blended with the synthetic plastics and resin materials to improve the workability during fabrication, to extend or modify the natural properties of the material, and to develop new or improved properties not present in the original material. They can be present in concentrations from 5 percent to 60 percent of the total weight of the plastics and resins. DnOP can also be used as a dye carrier in plastic production (mostly PVC) and as a component in the production of adhesives, plastisols, and nitrocellulose lacquer coatings (Refs. 3 and 4).

2. *Releases.* In 1989, 99 facilities reported DnOP releases and transfers under EPCRA section 313. This number includes at least one facility (Mazda Motor USA Corporation (Mazda), the largest releaser of DnOP to air for 1989) which was confirmed to have erroneously reported releases to air of DEHP as DnOP. Additionally, this facility erroneously reported transfers to publicly owned treatment works (POTWs) and other off-site locations. Omitting the reporting by Mazda, the corrected releases and transfers of DnOP for 1989 are as follows: 112,476 pounds released to air; 1,251 pounds released to water; 1,813 pounds released to land; 66 pounds injected underground; 12,376 pounds transferred to POTWs; and 164,140 pounds transferred to other off-site locations (Ref. 3).

3. *Environmental fate.* DnOP sorbs strongly to organic matter in soils and sediments. Adsorption is likely the most important transport mechanism in surface waters.

Hydrolysis and volatilization are expected to be relatively slow processes for removal of DnOP from surface waters.

Under aerobic conditions, biodegradation of DnOP occurs with a half-life of 7 to 30 days. Under aerobic

conditions, the general biodegradation mechanism consists of enzymatic hydrolysis of the ester to soluble intermediates, presumably via a phthalic acid monoester. Anaerobic biodegradation is expected to be very slow (greater than months) (Ref. 1).

DnOP strongly absorbs ultraviolet (UV) radiation with a wavelength of 274.5 nanometers (nm) and is a candidate for photolysis (i.e., decomposition by absorption of light). However, EPA is not aware of any experimental photolysis data for phthalate esters. An estimation for the photolysis half-life of DnOP in surface waters is 144 days. Direct photolysis of DnOP in the atmosphere is not expected to occur to any significant extent; however, DnOP will be photodegraded by photochemically produced hydroxyl radicals found in the atmosphere. A half-life of 14 hours has been estimated (Refs. 1 and 4).

4. *Exposure.* Bottom sediment steady-state concentrations exceeding 10 mg of DnOP per kg of dry weight sediments are estimated downstream from manufacturing facilities, thus potentially exposing benthic organisms. However, as DnOP strongly sorbs to sediments, it is not expected to be bioavailable.

It is estimated that 80 percent of the DnOP in wastewater is removed in secondary waste water treatment systems. DnOP concentrations in surface waters (under mean flow conditions) downstream from facilities reporting releases are estimated to be between less than 1 ppb and 9 ppb. Concentration levels entering major drinking water utilities were estimated to determine potential exposures to large populations, and the levels were estimated at less than 0.5 ppb (Ref. 1).

V. Rational for Delisting

EPA is proposing to grant the petition submitted by Vista Chemical Company to delete DnOP from the section 313 list of toxic chemicals. The decision to grant this petition is based on the total weight of available evidence for all applicable toxicity endpoints.

With respect to deletions, EPCRA provides at section 313(d)(3) that "[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of the criteria described in paragraph [(d)(2)(A)-(C)]." As DnOP exhibits acute toxicity only at levels that greatly exceed releases and resultant exposures, DnOP cannot reasonably be anticipated to cause ". . . significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring releases." Thus, EPA does not believe that DnOP meets the toxicity criteria for listing under EPCRA section 313(d)(2)(A).

EPA does not believe that DnOP meets the toxicity criteria of EPCRA section 313(d)(2)(B) because DnOP (1) cannot reasonably be anticipated to cause cancer, teratogenic effects, immunotoxicity, or neurotoxicity and (2) cannot reasonably be anticipated to cause liver toxicity, kidney toxicity, or reproductive and developmental toxicity, except, as discussed in Unit IV, at relatively high dose levels, such that EPA believes the section 313(d)(2)(B) criteria are not satisfied.

EPA does not believe that DnOP meets the toxicity criteria of EPCRA section 313(d)(2)(C) because adverse effects of DnOP on aquatic organisms occur only at levels that are in excess of the aqueous solubility limit of DnOP. Thus, EPA believes that any potential significant adverse effects on the aquatic environment are mitigated by DnOP's low solubility in water. Furthermore, although DnOP does bioconcentrate in aquatic organisms, it will become dispersed rather than biomagnified in higher organisms.

VI. Rulemaking Record

The record supporting this proposed rule is contained in docket number OPPTS–400068. All documents, including an index of the docket, are available in the TSCA Public Docket Office from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA Public Docket Office is located at EPA Headquarters, Rm. NE–G004, 401 M St., SW., Washington, DC 20460.

VII. Request for Public Comment

EPA requests public comment on this proposal to delete DnOP from the list of chemicals subject to EPCRA section 313. Comments should be submitted to the address listed under the ADDRESSES unit. All comments must be received by March 15, 1993.

VIII. References

(1) Nold, Annette. Di-n-Octyl Phthalate Exposure Report for Delisting Petition. USEPA. July 9, 1992.

(2) Randecker, Lorraine. Hazard Assessment of Di-n-Octyl Phthalate (DnOP) in Response to Delisting Petition of Vista Chemical Company. USEPA. July 15, 1992.

(3) Reid, Matt. Final Economics Report for TRI Delisting of DnOP. USEPA. July 15, 1992.

(4) Tou, Jenny. Chemistry Report on Di-n-Octyl Phthalate. USEPA. July 15, 1992.

IX. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this is not a "major rule" because it will not have an effect on the economy of $100 million or more. This proposed rule would decrease the impact of the EPCRA section 313 reporting requirements on covered facilities and would result in cost-savings to industry, EPA, and the States. Therefore, this is a minor rule under Executive Order 12291. This proposed rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12291. In 1990, the number of facilities that reported on DnOP was 82. Thus, under the proposed rule these 82 facilities would no longer report on this chemical. The estimated cost savings to industry by deleting the listing is estimated to be $1,395 per year per reporting facility that no longer is required to report. The cost saving to EPA is $72 per facility per report. The total cost savings to EPA and industry is estimated to be $120,294 per annum.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, the Agency must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected by a proposed rule. Because the proposed rule results in cost savings to facilities, the Agency certifies that small entities will not be significantly affected by the proposed rule.

C. Paperwork Reduction Act

This proposed rule does not have any information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 372

Chemicals, Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: January 6, 1993.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore it is proposed that 40 CFR part 372 be amended to read as follows:

1. The authority citation for part 372 would continue to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by removing the entire entry for n-Dioctyl phthalate under paragraph (a) and removing the entire CAS No. entry for 117–84–0 under paragraph (b).

[FR Doc. 93–787 Filed 1–12–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

46 CFR Part 514

[Docket No. 93–01]

Electronic Filing of Military Rates

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Maritime Commission ("Commission" or "FMC"), pursuant to section 16 of the Shipping Act of 1984 ("1984 Act") and section 35 of the Shipping Act, 1916 ("1916 Act") is proposing to exempt from the filing requirements of the 1984 Act and the 1916 Act and remove from the requirements of 46 CFR part 514, on certain conditions, transportation of U.S. Department of Defense ("DOD") cargo moving under terms and conditions negotiated and approved by the Military Sealift Command ("MSC") and set forth in a rate guide or tender. In addition, the Commission proposes to allow any military rate filed in a commercial tariff of a carrier or conference to become effective upon filing.

DATES: Comments are due February 12, 1993.

ADDRESSES: Written comments (original and 15 copies) must be submitted to: Joseph C. Polking, Secretary, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001.

FOR FURTHER INFORMATION CONTACT: John Robert Ewers, Deputy Managing Director, Office of the Managing Director, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573–0001.

SUPPLEMENTARY INFORMATION: MSC is responsible for arranging ocean transportation services for all components of DOD. Although MSC can utilize commercial tariff rates and service contracts for the carriage of DOD cargo, most DOD cargo moves pursuant to rates tendered to MSC in bid form *i.e.*, "tenders," which, if accepted, become special contractual arrangements which MSC enters into with the carriers. The development of such tenders, therefore, is quite different from the carrier generation of rates for commercial cargo in a tariff publication. While military tenders are required to be filed, they are subject to a continuing special permission, 46 CFR 580.1(d), which provides:

(d) The following services are subject to continuing special permission authority to deviate from the 30-day notice requirement of section 8 of the [1984] Act and the form and content requirements of this part: Transportation of U.S. Department of Defense cargo by American-flag common carriers under terms and conditions negotiated and approved by the Military Sealift Command (MSC), if all the following conditions are met:

(1) Exact copies of all common carrier quotations or tenders accepted by MSC are filed with the Commission as soon as possible after they are approved by MSC, but on not less than one day's filing notice prior to the effective date thereof;

(2) All tenders are filed in triplicate, one copy of which is signed and maintained at the Commission's Washington Office for public inspection;

(3) A letter of transmittal accompanies the filing stating that the documents are submitted in accordance with the requirements of the Shipping Act of 1984 and this section;

(4) Tenders submitted for filing are to be numbered by the respective common carriers as part of a distinct tariff series, with each common carrier's series to begin with the number "1" and run consecutively thereafter;

(5) Each tender which supersedes a prior tender must specifically cancel the prior tender by its series number; and

(6) Amendments or supplements to tenders must also be filed with the Commission upon not less than one day's filing notice and contain an appropriate reference to the original tender being amended or supplemented.

In Docket No. 90–23, Tariffs and Service Contracts, the Commission is developing rules that will govern the electronic formatting and filing of all tariff data pursuant to the Automated Tariff Filing and Information ("ATFI") system. As a part of Docket No. 90–23, the Commission carried forward the continuing special permission pertaining to military rate tenders to ATFI. The proposed continuing special permission was set forth in section 514.3(b)(4) [1] of the proposed rules and comments thereon were requested. In response to comments, the continuing special permission was modified, resulting in the following provision which appeared in the interim rule of August 12, 1992:

[514.3(b)] (4) *Department of Defense cargo in foreign commerce—certain requirements.* Transportation in foreign commerce of U.S. Department of Defense cargo by American-flag common carriers, under terms and conditions negotiated and approved by the Military Sealift Command ("MSC"), is subject to continuing special permission authority to deviate from the 30-day notice requirement of section 8 of the 1984 Act, if all of the following conditions are met:

(i) All common carrier quotations or tenders, including amendments thereto, are filed with the Commission as soon as possible after they are accepted and approved by MSC, but no later than on the effective date;

(ii) MSC tenders are filed in the carrier's foreign commodity tariff(s) covering the trade route(s) applicable to the tender(s);

(iii) MSC tenders are filed for distinct commodities or as separate TLI's within a commodity, as applicable, using the filing/amendment code "M" under section 514.9(b)(13);

(iv) The use of the filing/amendment code "M" is understood by the filer to mean that the tariff material filed is submitted in accordance with the requirements of the Shipping Act of 1984 and this part; and

(v) The terms and conditions governing the military rates, as set forth in the applicable MSC rate agreement(s), are included in Tariff Rule 32, section 514.15(b)(32), and assessorials are properly formatted and linked to the commodity description and/or TLI.

In the Supplementary Information to the August 12 interim rule, the Commission stated:

Even though MSC suggests consideration of parallel filing of tenders in paper form, the Commission does not think this is necessary or desirable. The purpose of ATFI is to do away with paper filing to the extent possible * * *. [57 FR 36259.]

Pursuant to the interim rule's invitation for further comment in Docket No. 90–23, comments on the electronic filing of military rates were filed by MSC, as well as by two ocean carriers, Farrell Lines, Inc. and Sea-Land Service, Inc. ("Carriers"). Because these comments raised issues not originally within the scope of proposed Part 514, or requested reconsideration of actions previously taken, they cannot be implemented in the interim amendments in Docket No. 90–23. Accordingly, these issues have been severed from Docket No. 90–23, and are being considered in this proceeding.[2]

The Carriers argue that § 514.3(b)(4) has "reregulated" the filing of U.S. military rates, thereby eviscerating the tariff filing exemption now found in 46 CFR 580.1(d). Under the interim rule, the Carriers point out that each filing carrier will be required to take all the rates accepted by MSC, enter them into ATFI, and draft algorithms for assessorial charges. The Carriers further

[1] *See also* the companion provisions at sections 514.9(b)(13) and 514.15(b)(32).

[2] A proposed rule and an interim (final) rule cannot be contained in the same document for **Federal Register** publication.

point out that these rates are used by only one shipper, *i.e.*, MSC, and conclude that there is no interest served by filing MSC rates in ATFI format. Hence, according to the Carriers, § 514.3(b)(4) is "unwarranted and unworkable."

The comments of the Carriers appear to have merit. Accordingly, the Commission proposes to exempt the transportation of DOD cargo moving under terms and conditions negotiated and approved by MSC from the tariff filing requirements of the 1916 and 1984 Acts and remove such transportation from the rules of this part, provided a copy of the applicable military rate guide or tender is filed with the FMC. The result of this proposed rule would be, in essence, to preserve the *status quo* with respect to the treatment of rates contained in military rate guides or tenders.[3]

Section 514.15(b)(32), which requires Tariff Rule 32 to contain all terms and conditions pertaining to MSC tenders, is proposed to be deleted as unnecessary. However, § 514.9(b)(13), which prescribes the symbol "M" for military rates, is retained, but amended for situations where the military rates may be filed by the carrier itself in the carrier's commercial tariff.

The exemption proposed here will be under section 16 of the 1984 Act, 46 U.S.C. app. section 1715, and section 35 of the 1916 Act, 46 U.S.C. app. section 833a, which require findings that the exemption will not substantially impair effective regulation, be unjustly discriminatory, result in a substantial reduction in competition (1984 Act only), or be detrimental to commerce.

It appears that: 1. The exemption will not substantially impair effective regulation by the Commission. It is unnecessary for military rates to be converted to a commercial staff format in order for the Commission to carry out its regulatory responsibilities. For rate analyses, and for the purpose of investigation, surveillance and enforcement, the rate guides and tenders in their present format should be sufficient.

2. The exemption will not be unjustly discriminatory, result in substantial reduction in competition,[4] or be detrimental to commerce. In essence, the proposed exemption would preserve the *status quo* with respect to the treatment of rates contained in military rate guides or tenders.

Accordingly, the Commission believes that an exemption under section 16 of the 1984 Act and section 35 of the 1916 Act is warranted.

Although the Commission, as an independent regulatory agency, is not subject to Executive Order 12291, dated February 17, 1981, it nonetheless has reviewed the proposed rule in terms of this Order and has determined that this rule is not a "major rule" as defined in Executive Order 12291, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries; Federal, State or local government agencies or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Federal Maritime Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(n), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small government jurisdictions. To the extent that rates on military cargo may be filed by a small entity, the proposed rule, if adopted, will decrease filing burdens by reverting to the status quo ante, whereby military rates will be filed by the Military Sealift Command, rather than by the small-entity carriers, as required by current part 514.

The collection of information requirements contained in 46 CFR part 514 (and Exhibit 1 to part 514) have been approved by the Office of Management and Budget (OMB) in accordance with 44 U.S.C. chapter 35 and have been assigned OMB control number 3072–0055. The proposed amendments to part 514 contained in this rulemaking contain no information collection requirements additional to those already approved.

List of Subjects in 46 CFR Part 514

Barges, Cargo, Cargo vessels, Exports, Fees and user charges, Freight, Harbors, Imports, Maritime carriers, Motor carriers, Ports, Rates and fares, Reporting and recordkeeping requirements, Surety bonds, Trucks, Water carriers, Waterfront facilities, Water transportation.

Therefore, for the reasons set forth in the preamble, and pursuant to 5 U.S.C. 552 and 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; section 2(b) of Public Law 101–92, and section 502 of Public Law 102–582; part 514 of title 46, Code of Federal Regulations, is proposed to be amended as follows:

PART 514—TARIFFS AND SERVICE CONTRACTS

1. The authority citation for part 514 continues to read as follows:

Authority: 5 U.S.C. 552 AND 553; 31 U.S.C. 9701; 46 U.S.C. app. 804, 812, 814–817(a), 820, 833a, 841a, 843, 844, 845, 845a, 845b, 847, 1702–1712, 1714–1716, 1718, 1721 and 1722; and sec. 2(b) of Pub. L. 101–92, 103 Stat.601.

2. In § 514.3, paragraph (b)(4) is revised to read as follows:

§ 514.3 Exemptions and exclusions.

* * * * *

(b) * * *

(4) *Department of Defense cargo*—Transportation of U.S. Department of Defense cargo moving under terms and conditions negotiated and approved by the Military Sealift Command ("MSC") and published in a rate guide or tender is exempt from the tariff filing requirements of the 1916, 1933 and 1984 Acts and the rules of this part if an exact copy of the rate guide or tender, including any amendments thereto, is filed with the Commission prior to the effective date of the rate guide or tender.

* * * * *

3. In § 514.9, paragraph (b)(13) is revised to read as follows:

§ 514.9 Filing/amendment codes and required notice periods.

* * * * *

(b) * * *

(13) Where a rate for military cargo is incorporated as a separate TLI in the commercial tariff of a carrier or conference the filing/amendment code "M" shall be used to identify the TLI. Any such military rate shall be effective upon filing.

* * * * *

§ 514.15 [Amended]

4. In § 514.15, paragraph (b)(32) is removed and marked "Reserved."

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[3] MSC filed comments which sought to make the exemption from the 30-day filing requirement available to all carriers, not simply American-flag vessels. The exemption proposed herein is considerably broader than the exemption from the 30-day filing requirement and is available to all carriers regardless of flag.

[4] The requirement that the exemption not result in a substantial reduction in competition does not appear in section 35 of the 1916 Act. In any event, the Commission fails to see how preservation of the *status quo* with respect to military rate tenders would result in a substantial reduction in competition.

By the Commission.
Joseph C. Polking,
Secretary.
[FR Doc. 93-695 Filed 1-12-93; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

MSS Above 1 GHz Negotiated Rulemaking Committee

AGENCY: Federal Communications Commission.
ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, this notice advises interested persons of the second meeting of the MSS Above 1 GHz Negotiated Rulemaking Committee ("Committee"), which will be held at the Federal Communications Commission in Washington, D.C.

DATES: Thursday, January 28, 1993 at 9:30 a.m.

ADDRESSES: Federal Communications Commission, Rm. 856, 1919 M Street, NW., Washington, DC 20554.

FOR ADDITIONAL INFORMATION CONTACT: Kathleen Campbell, Administrative Assistant to the Committee, at (202) 634-1952.

SUPPLEMENTARY INFORMATION: The agenda for the second meeting of the MSS Above 1 GHz Negotiated Rulemaking Committee is as follows:

1. Opening Remarks/Comments
2. Adoption of Agenda
3. Minutes/Records of Previous Meeting
4. Introduction of Documents
5. Informal Working Group Reports—Issues
6. Acceptance/Approval of Recommended Rules
7. Acceptance/Approval of Report Text
8. Agenda for future meetings—Schedule for future meetings
9. Other Business

Members of the general public may attend this meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. However, admittance will be limited to the seating available. There will be no public oral participation, but the public may submit written comments to Fern J. Jarmulnek, the Committee's Designated Federal Officer, before the meeting.

Subsequent Committee meetings are scheduled for Thursday, February 2; Monday, February 8; Thursday, February 18; Thursday, February 25; Thursday, March 4; Tuesday, March 8; Thursday, March 18; Thursday, March 25; and Friday, April 2. All meetings are scheduled to begin at 9:30 a.m. at the Federal Communications Commission, 1919 M Street NW., room 856, Washington, DC 20554.

Federal Communciations Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 93-875 Filed 1-12-93; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-162, FCC 92-573]

Broadcast Services; Financial Interest and Syndication Provisions

AGENCY: Federal Communications Commission.
ACTION: Proposed rule.

SUMMARY: This document seeks comment with regard to how the Commission should respond to the U.S. Court of Appeals for the Seventh Circuit decision in *Schurz Communications, Inc., et al.*, v. *FCC (Schurz)* which vacated this Commission's decision relaxing and modifying its financial interest and syndication rules. The Court instructed the Commission to provide more justification for its rules, or in the alternative, to propose a new set of rules. The Notice asks commenters to submit new information in support of the rules or, in the alternative, to propose a revised set of financial interest and syndication rules.

DATES: Comments are due by February 1, 1993, and reply comments are due by February 16, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Judith Herman, Mass Media Bureau, Policy and Rules Division, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

Second Further Notice of Proposed Rulemaking

Adopted: December 31, 1992; Released: December 31, 1992.
Comment Date: February 1, 1993.
Reply Comment Date: February 16, 1993.

By the Commission: Chairman Sikes issuing separate statement.

I. Introduction

1. On November 5, 1992, the U.S. Court of Appeals for the Seventh Circuit in *Schurz Communications, Inc., et al.*, v. *FCC (Schurz)*[1] vacated this Commission's decision relaxing and modifying its financial interest and syndication rules.[2] The Court invalidated the Commission's decision except insofar as the Court found it to abrogate the original (1970) financial interest and syndication rules.[3] The Court stayed its decision for 120 days, remanding the matter to the Commission for further proceedings consistent with its ruling. In this Second Further Notice of Proposed Rulemaking we seek comment with regard to how we should resolve the Court's concerns.

II. Background

2. The financial interest and syndication rules, originally adopted in 1970, were designed to limit the power of the broadcast television networks over television programming. The rules prohibited the television networks from acquiring any financial interests in the subsequent broadcast of outside produced programs (i.e., programs not solely produced by the network) other than the right to exhibit such programs on the network. The rules also prohibited the networks from actively engaging in the domestic syndication business, or from having any ongoing interest in the syndication of programs for non-network broadcast distribution. Networks were allowed, however, to syndicate outside the United States programs that they solely produced or that were produced by foreign entities.

3. In 1991, this Commission determined, after an extensive notice and comment rulemaking proceeding and an *en banc* hearing, that it should relax, but not repeal the financial interest and syndication rules. Accordingly, the 1991 rules: (1) Eliminated restrictions on network ownership and syndication of network programming as to all dayparts and all programs other than prime time entertainment programming; (2) allowed networks to retain all rights in all "in-house" productions; (3) permitted networks to fill up to, but not more than, 40 percent of their prime time entertainment schedule with "in-house" productions; (4) allowed networks to acquire all rights, including financial interests, domestic syndication rights

[1] See *Schurz Communications, Inc., et al.* v. *Federal Communications Commission and the United States of America*, Nos. 91-2350, *et al.*, slip opinion (7th Cir., November 5, 1992), and *modified*, (December 7, 1992).

[2] Report and Order in MM Docket No. 90-162, 6 FCC Rcd 3094 (1991) 56 FR 26242, June 6, 1991 Recon. granted in part/denied in part, 7 FCC Rcd 345 (1991).

[3] The Commission had expressly advised the Court that it had no independent intention to and, in fact, had not repealed the 1970 rules in its Order. Public Notice, FCC 92-520 (released November 20, 1992) (Chairman Sikes and Commissioner Quello dissenting and issuing statements).

and foreign syndication rights, in outside productions on their own or another network, subject to certain safeguards; (5) allowed networks to engage in foreign syndication of network programs without limitation; and (6) allowed limited network participation in first-run syndication. The Commission also adopted a new definition of "network" and imposed certain behavioral safeguards.[4]

III. Discussion

4. The Court supported two important aspects of the Commission's reasoning in this proceeding. First, the Court agreed with the Commission's determination that the structure of the television industry has changed significantly since the financial interest and syndication rules were adopted in 1970. *Schurz* at 4. Second, the Court agreed that the Commission has the authority to regulate the networks in accordance with the public interest, convenience, or necessity and, thus, has the authority to restrict network programming activities so as to foster a diversity of programming sources and outlets even if the networks were without any market power. *Schurz* at 8–10.

5. The Court stated, however, that while the modified rules appear plausible, the decision did not address all the objections to the Commission's approach that were raised in the record of this proceeding. The Court concluded, therefore, that the Commission's justification for the 1991 rules was inadequate. The Court remanded the decision to give the Commission an opportunity to better articulate its justification. The Court opined that such a proceeding could result in significant modifications in the rules. *Schurz* at 12.

6. The Court identified several areas warranting further explanation. It stated that the Commission did not respond to the network's objection that the 1991 rules do not increase the networks' access to the programming market and may decrease it. The Court noted, for example, that the networks state that the 40 percent limitation on the amount of prime-time entertainment they can supply from in-house production is a new restriction, having no counterpart in the original rules.[5] Schurz at 13.

7. Further, the Court opined that the 1991 rules appear to harm rather than to help outside producers as a whole, especially the smallest and least able to bear risk, by reducing their bargaining options. The Court also stated that the Commission's decision did not fully explain how the 1991 rules prevent networks from extracting financial interests or syndication rights from outside producers. In particular, it questioned whether the new safeguards (e.g., the 30-day phased negotiations) could provide meaningful protection against extraction. Schurz at 16.

8. The Court also stated that the Commission failed to respond to the argument that its rules limit competition with the established networks, thereby limiting rather than promoting diversity. Specifically, the Court noted that the 1991 rules limit Fox Broadcasting Company to supplying no more than 15 hours of programming to its affiliates if Fox is to remain exempt from the 1991 rules. Thus, the Court found these rules to weaken Fox's incentives to furnish prime-time programming to its affiliates, many of whom are traditionally weak UHF stations, which appeared contrary to the Commission's desire to strengthen such stations. Schurz at 17–18.

9. The Court also found that the Commission's Order did not adequately address the 1983 Tentative Decision and Request for Further Comments in Docket 82–345,[6] and its legal significance as a Commission precedent. The Court said that the Commission should have better explained the differences between the 1983 Tentative Decision and the 1991 Order. Finally, the court said that while the Commission's Order states that a primary purpose of the 1991 rules is to promote "diversity", the Commission did not define the term nor adequately explain how the 1991 rules promote diversity. Schurz at 19. Accordingly, we seek specific comment on whether and how the 1991 rules are likely to preserve or enhance diversity of prime time broadcast television programming services and outlets.

10. The Court conceded that the arguments raised by the Justice Department, the networks and others with respect to the effect of the rules on competition, risk-sharing and diversity may be speculative, theoretical or wrong. These arguments were, however, sufficiently persuasive, in the Court's opinion, to have placed a burden of explanation that the Commission did not meet. In remanding the matter to the Commission, the Court suggested that we could seek to "rejustify" the 1991 rules or, in the alternative, draft new rules. The Court imposed a deadline of 120 days. The Court noted that the Commission may ask the Court for a stay, but, failing that, all Commission financial interest and syndication rules would be eliminated after 120 days. In compliance with the Court's mandate, we intend to reexamine the extensive record already compiled with a view toward reconciling new or revised rules, if any, with the Court's concerns. Commenters are invited to submit new information in support of the 1991 rules or, in the alternative, to propose a revised set of financial interest and syndication rules. Comments should not merely reiterate parties' positions already on the record, but should instead respond specifically and directly to the Court's opinion and the appropriate Commission response. In addition, we will consider the impact of regulatory changes and marketplace developments that have occurred during the intervening period. For example, commenters may want to assess the impact of the Commission's modified network-cable rules,[7] or the program access and industry structural review initiatives required by the 1992 Cable Act.[8] In this regard, commenters are invited to assess the need for a revised review period or the adoption of a presumption of sunset of any future rules in light of the Court's remand. We particularly encourage parties to consolidate their pleadings whenever possible.

IV. Administrative Matters

A. Regulatory Flexibility Analysis

11. As required by section 603 of the Regulatory Flexibility Act, the FCC has prepared an initial regulatory flexibility analysis (IRFA) of the expected impact of these proposed policies and rules on small entities. The IRFA is set forth in appendix A. Written public comments are requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the Second Further Notice of Proposed Rulemaking, but they must have a separate and distinct heading designating them as responses to the regulatory flexibility analysis. The Secretary shall cause a copy of this Second Further Notice of Proposed Rulemaking, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for

[4] See 47 CFR 73.658(k), 73.659–73.662, 73.3526(a)(11) (1991).

[5] We note that neither the 1970 rules nor the 1983 Tentative Decision and Request for Further Comments permitted network domestic syndication of any programming. The 1991 rules relaxed the prior syndication prohibition, but invoked a scheduling safeguard as an interim measure.

[6] 94 FCC 2d at 1063.

[7] See Report and Order in MM Docket No. 82–434, 7 FCC Rcd 6156 (1992) 57 FR 35468, August 10, 1992, reconsideration pending.

[8] See, Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102–385, 106 Stat. (1992).

Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

B. Ex Parte

12. This is a non-restricted notice and comment rule-making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. See generally 47 CFR 1.1202, 1.203, and 1.206(a).

C. Comment Procedures

13. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before February 1, 1993, and reply comments on or before February 16, 1993. To file formally in this proceeding, you must file an original plus five copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You should send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, room 239, 1919 M Street, NW., Washington, DC 20554.

14. The Commission must reach a decision in an expeditious manner, in light of the 120-day deadline imposed by the Court. Thus, comments on the issues raised in this Second Further Notice of Proposed Rulemaking shall not exceed thirty double-spaced typed pages, and reply comments shall not exceed twenty double-spaced typed pages.

D. Ordering Clauses

15. Authority for this proposed Second Further Notice of Proposed Rulemaking is contained in sections 4(i) and (j), and 301, 303(i), 303(r), 313 and 314 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(i), 303(r), 313 and 314.

16. For further information on this proceeding, contact Judith Herman, Mass Media Bureau, (202) 632–6302.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Appendix A.—Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, the Commission finds:

I. *Reason for action.* This Second Further Notice of Proposed Rulemaking is initiated to obtain comment regarding the appropriate action the Commission should take in response to the Court's remand of the Commission's decision in the Order in this proceeding.

II. *Objectives.* The Commission seeks to review and perhaps modify its 1991 financial interest and syndication rules in light of the Court's decision.

III. *Legal basis.* Action as proposed for this rulemaking is contained in sections 4(i), 4(j), 301, 303(i), 303(r), 313 and 314 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 301, 303(i), 303(r), 313 and 314.

IV. *Reporting, recordkeeping and other compliance requirements.* None.

V. *Federal rules which overlap, duplicate or conflict with this rule.* None.

VI. *Description, potential impact and number of small entities affected.* Any rule changes in this proceeding could affect television program producers, television networks and their affiliate stations, non-network television stations, cable networks, cable television program producers, cable television networks and cable television operators. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth our findings in the Final Regulatory Flexibility Analysis.

VII. *Any significant alternatives minimizing impact on small entities and consistent with stated objective.* None.

Statement of FCC Chairman Alfred C. Sikes Regarding the Reassessment of the "Financial Interest and Syndication" Rule

December 31, 1992.

I continue strongly to believe that the Government should not be involved in commercial battles between television networks and the producer community in general—especially the big multinational entertainment companies.

I can hypothesize, however, sound public policy reasons why some limited Government role might be warranted if it were clearly shown there is no other means of fostering more genuine program diversity. Consequently, commenters should address—and debate should surround—the question whether the networks, if they were accorded free rein, would be more or less hospitable to prospective or nascent producers, especially those with new programming ideas. If networks are likely to be less hospitable, commenters should then recommend reasonable steps this agency might take to ensure an environment that is more conducive to allowing prospective or nascent producers to make a contribution.

It may well be that there is no good reason to assume any Government rules would be publicly beneficial—or, more accurately, work markedly better than a marketplace solution. Markets need not work better than regulation to be desirable; all markets need do is work as effectively as regulation and, as anyone exposed to the regulatory process appreciates, it is not hard to work "as effectively" as regulation. We should, however, endeavor to explore fully this one question of how best to foster a program production environment conducive to a diversity greater than we enjoy today. Comments on this point, accordingly, would be welcome.

[FR Doc. 93–613 Filed 1–12–93; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Part 970

Acquisition Regulation; Implementation of Requirements of Major Fraud Act of 1988

AGENCY: Department of Energy (DOE).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) today proposes a rule which, when issued as a final rule, will amend the Department of Energy Acquisition Regulation (DEAR) and implement the requirements of the Major Fraud Act of 1988 (Pub. L. 100–700), enacted November 19, 1988, hereafter referred to as the "Act." The intended effect of this proposal is to establish, for incorporation in all of DOE's management and operating (M&O) contracts, awarded or extended after November 19, 1988, mandatory contract provisions prohibiting, in specified circumstances, the reimbursement of certain costs related to legal and other proceedings.

DATES: Written comments must be submitted no later than February 12, 1993.

ADDRESSES: Comments must be addressed to: Gwendolyn S. Cowan, Director, Business and Financial Policy Division (PR–122), Office of Procurement, Assistance and Program Management, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Gwendolyn S. Cowan, Business and Financial Policy Division (PR–122), Office of Procurement, Assistance and Program Management, U.S. Department of Energy, Washington, DC 20585. (202) 586–8159.

Mary Ann Masterson, Office of the Assistant General Counsel for Procurement and Finance (GC–34),

U.S. Department of Energy, Washington, DC 20585. (202) 586–1900.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Review Under Executive Order 12291
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Review Under Executive Order 12612
F. Review Under Executive Order 12778
III. Public Comments

I. Background

Under section 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR chapter 9.

The purpose of this rule is to revise the DEAR to formally establish policies, procedures and contract provisions to apply the Act's provisions in all cases where a criminal, civil or administrative proceeding is brought by Federal, State, local or foreign government against an M&O contractor. Accordingly, the proposed DEAR amendments include provisions for determining the allowability of an M&O contractor's costs incurred in connection with a criminal, civil or administrative proceeding involving contractor violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation.

All M&O contracts awarded or extended after November 19, 1988, the effective date of the Act, are subject to the Act and will be amended, as soon as possible, after the final rule is promulgated. Existing M&O contracts awarded or extended prior to the Act's effective date will be amended at that time of the next contract extension, if extended.

A brief description of the proposed DEAR amendments to part 970 follows:

Under DEAR subpart 970.31, "Contract Costs Principles and Procedures, "subsection 970.3102–20, "Defense of fraud proceedings," is replaced in its entirety by a new section titled "Costs related to legal and other proceedings." Subsection 970.3103, "Contract clauses," is revised to prescribe a new contract clause entitled "Costs related to legal and other proceedings."

Under DEAR subpart 970.52, "Contract Clauses For Management And Operating Contracts," subsection 970.5204–13, "Allowable costs and fixed-fee (management and operating contracts)," is revised, in paragraph (e)(33), to implement the Act and include a reference to the new contract clause specified at DEAR 970.5204–59; subsection 970.5204–14, "Allowable costs and fixed-fee (support contracts)," is revised, in paragraph (e)(31), to implement the Act and include a reference to the new contract clause specified at DEAR 970.5207–59; and subsection 970.5204–59, "Costs related to legal and other proceedings," to implement the Major Fraud Act Of 1988.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive Order, entitled "Federal Regulation," requires that certain regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. The Director, OMB by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No information collection or reporting requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 et seq. (1976)), or the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE guidelines (10 CFR part 1021), and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612 (52 FR 41685, October 30, 1987) requires that regulations, rules, legislation, and any other policy actions be reviewed by any substantial direct effects on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's proposed rule, when finalized, will revise certain policy and procedural requirements. However, the Department of Energy has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

F. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency subject to Executive Order 12291 to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct, and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposal meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed DEAR amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the ADDRESSES section of this notice. All comments received will be available for public inspection in the DOE Reading Room.

room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, between the hours of 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays. All written comments received by the date indicated in the **DATES** section of this notice will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule. Any information considered to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have substantial impact on the nation's economy or a large number of individuals or businesses. Therefore, pursuant Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), the Department does not plan to hold a public hearing on this proposed rule.

List of Subjects in 48 CFR Part 970

Government procurement.

For the reasons set out in the preamble, part 970 of chapter 9 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, DC, on December 30, 1992.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201); sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254); sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420); and sec. 1534 of the Department of Defense Authorization Act,1986, Pub. L. 99–145 (42 U.S.C. 7256a), as amended.

2. Section 970.3102–20 is revised to read as follows:

970.3102–20 Cost prohibitions related to legal and other proceedings.

(a) Contractor costs incurred in connection with a criminal, civil or administrative proceeding involving contractor violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation are subject to the allowable costs limitations established in section 8 of the Major Fraud Act of 1988, Public Law 100–700 (see 41 U.S.C. 256).

(b) Implementation of the Major Fraud Act's contract cost limitations is specified in the applicable cost principles clauses at 970.5204–13(e)(33) or 970.5204–14(e)(31). Definitive cost principle criteria for determining the allowability of an M&O contractor's costs incurred in connection with a criminal, civil or administrative proceeding are set forth in the contract clause at 970.5204–59. The referenced clauses are effective, retroactively, for any contract awarded or extended on or after November 19, 1988, the effective date of the Major Fraud Act, and any change made to the cost principle criteria specified therein constitutes a deviation requiring Procurement Executive approval pursuant to 970.3100–3.

3. Section 970.3103, Contract clauses, is amended by adding paragraph (c) to read:

970.3103 Contract clauses

* * * * *

(c) The clause setting forth cost prohibitions related to legal and other proceedings at 970.5204–59 shall be included in all M&O contracts.

4. Section 970.5204–13, Allowable costs and fixed-fee (management and operating contracts), is amended by revising paragraph (e)(33) to read as follows:

§ 970.5204–13 Allowable costs and fixed-fee (management and operating contracts).

* * * * *

(e) * * *

(33) Costs incurred in connection with any criminal, civil or administrative proceeding commenced by the Federal Government or a State, local or foreign government, as provided in the clause titled "Cost prohibitions related to legal and other proceedings" incorporated elsewhere in this contract.

* * * * *

5. Section 970.5204–14, Allowable costs and fixed-fee (support contracts), is amended by revising paragraph (e)(31) to read as follows:

§ 970.5204–14 Allowable costs and fixed-fee (support contracts).

* * * * *

(e) * * *

(31) Costs incurred in connection with any criminal, civil or administrative proceeding commenced by the Federal Government or State, local or foreign government, as provided in the clause titled "cost prohibitions related to legal and other proceedings" incorporated elsewhere in this contract.

* * * * *

6. Section 970.5204–59, Cost prohibitions related to legal and other proceedings, is added as follows:

§ 970.5204–59 Cost prohibitions related to legal and other proceedings.

(a) Definitions.

Conviction, as used herein, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, including a conviction due to a plea of nolo contendre.

Costs, include, but are not limited to, administrative and clerical expenses; the cost of legal services, whether performed by in-house or private counsel; the costs of the services of accountants, consultants, or others retained by the contractor to assist it; all elements of compensation, related costs, and expenses of employees, officers and directors; and any similar costs incurred before, during, and after commencement of a proceeding which bears a direct relationship to the proceeding.

Fraud, as used herein, means—

(1) Acts of fraud or corruption or attempts to defraud the Government or to corrupt its agents,

(2) Acts specified under 10 CFR 1035.5(a)(1) which constitute a cause for debarment or suspension (see 10 CFR 1035.5 (a) and (b)), and

(3) Acts which violate the False Claims Act, 31 U.S.C. 3729–3731, or the Anti-kickback Act, 41 U.S.C. 51 and 54.

Penalty, does not include restitution, reimbursement, or compensatory damages.

Proceeding, includes an investigation.

(b) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding commenced by the Federal Government, or a State, local or foreign government, are not allowable if the proceeding relates to a violation of, or failure to comply with, a Federal, State, local or foreign statute or regulation by the contractor, and results in any of the following dispositions:

(1) In a criminal proceeding, conviction.

(2) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability.

(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty.

(4) A final decision by an appropriate Federal official to debar or suspend the contractor, to rescind or void a contract, or to terminate a contract for default by reason of a violation of or failure to comply with a law or regulation.

(5) A disposition by consent or compromise, if the action could have

resulted in any of the dispositions described in paragraphs (b) (1), (2), and (3) or (4) of this section.

(6) Not covered by paragraphs (b) (1) through (5) of this section, but where the underlying alleged contractor misconduct was the same as that which led to a different proceeding whose costs are unallowable by reason of paragraphs (b) (1) through (5) of this section.

(c) If a proceeding referred to in paragraph (b) of this section is commenced by the Federal Government and is resolved by consent or compromise pursuant to an agreement entered into by the contractor and the Federal Government, then the costs incurred by the contractor in connection with such proceeding that are otherwise unallowable under paragraph (b) of this section may be allowed to the extent specifically provided in such agreement.

(d) If a proceeding referred to in paragraph (b) of this section is commenced by a State, local or foreign government, the Contracting Officer may allow the costs incurred in such proceeding, provided the Procurement Executive determines that the costs were incurred as a result of compliance with a specific term or condition of the contract, or specific written direction of the Contracting Officer.

(e) Costs incurred in connection with a proceeding described in paragraph (b) of this section, but which are not made unallowable by that paragraph, may be allowed by the Contracting Officer only to the extent that:

(1) The total costs incurred are reasonable in relation to the activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the costs incurred, as allowable and allocable contract costs, is not prohibited by any other provision(s) of this contract.

(3) The costs are not otherwise recovered from the Federal Government or a third party, either directly as a result of the proceeding or otherwise; and

(4) The amount of costs allowed does not exceed 80 percent of the total costs incurred and otherwise allowable under the contract. Such amount that may be allowed (up to the 80 percent limit) shall not exceed the percentage determined by the Contracting Officer to be appropriate, considering the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate. However, where an agreement reached under paragraph (c) of this section explicitly considered this 80 percent limitation, then an amount up to the full amount of costs specifically provided in such agreement may be allowed.

(f) Contractor costs incurred in connection with the defense of suits brought by employees or ex-employees of the contractor under section 2 of the Major Fraud Act of 1988, including the cost of all relief necessary to make such employee whole, where the contractor was found liable or settled, are unallowable.

(g) Costs which may be unallowable under this clause, including directly associated costs, shall be differentiated and accounted for by the contractor so as to be separately identifiable. During the pendency of any proceeding covered by paragraphs (b) and (f) of this section, the Contracting Officer shall generally withhold payment and not authorize the use of funds advanced under the contract for the payment of such costs. However, the Contracting Officer may, in appropriate circumstances, provides for conditional payment upon provision of adequate security, or other adequate assurance, and agreements by the contractor to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

[FR Doc. 93–767 Filed 1–12–93; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF THE INTERIOR

Fish And Wildlife Service

50 CFR Part 17

RIN 1018–AB

Endangered and Threatened Wildlife and Plants; Public Hearing and Reopening of Comment Period on Proposed Endangered Status for the Plant Ipomopsis sancti-spiritus

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that a public hearing will be held and the comment period is reopened on the proposed rule to list *Ipomopsis sancti-spiritus* (Holy Ghost ipomopsis) as an endangered species. The comment period is being reopened to allow the Service to accept oral or written comments at the hearing and for a reasonable period of time thereafter.

DATES: The public hearing will be held from 6:30 p.m. to 9 p.m. on January 27, 1993, in Santa Fe, New Mexico. The comment period for this proposal is reopened on January 13, 1993 and now closes on February 23, 1993.

ADDRESSES: The public hearing will be held at the Public Employee's Retirement Association (PERA) Building, Apodaca Hall, 1120 Paseo de Peralta, Santa Fe, New Mexico. Written comments and materials should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 3530 Pan American Highway, Suite D, Albuquerque, New Mexico 87107. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Field Office address.

FOR FURTHER INFORMATION CONTACT: For information on the public hearing, contact Philip Clayton at the above Field Office address, telephone (505) 883–7877.

SUPPLEMENTARY INFORMATION:

Background

Holy Ghost ipomopsis is a member of the phlox family and is known to occur only in a limited area of the Sangre de Cristo Mountains, San Miguel County, New Mexico. Holy Ghost ipomopsis is threatened by road maintenance, wildfire and fire management policy, habitat alteration, and pesticide application. A proposed rule to list this species as endangered was published in the Federal Register (57 FR 43682) on September 22, 1992.

Section 4(b)(5)(E) of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. On October 21, 1992, the Service received a written request for a public hearing from Mr. Bert Turner, President of the San Miguel/Mora County Farm and Livestock Bureau, Wagon Mound, New Mexico. The Service has scheduled this public hearing for January 27, 1993, from 6:30 p.m. to 9 p.m. in the Public Employee's Retirement Association Building, Santa Fe, New Mexico. Those parties wishing to make statements for the record should bring a copy of their statement to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearing or mailed to the Service.

The comment period on the proposed rule originally closed on November 23,

1992. The Service is reopening the comment period until February 23, 1993. This will allow the Service to accept oral or written comments presented at the hearing, and to accept written comments for a reasonable period of time after the hearing. Written comments should be submitted to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Philip Clayton, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 3530 Pan American Highway, Suite D, Albuquerque, New Mexico 87107, (505) 883–7877.

Authority: The authority for this action is the Endangered Species Act (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: January 7, 1993.

James A. Young,

Acting Regional Director.

[FR Doc. 93–727 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–55–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB69

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on Proposed Endangered Status for 23 Plants From the Island of Kauai, HI

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), gives notice that a public hearing will be held on the proposed rule to list 23 plants from the island of Kauai, Hawaii, as endangered species, and that the comment period on the proposal is reopened. The proposal was published in the Federal Register on October 30, 1991 (56 FR 55862). The public hearing will be held on February 10, 1993, in Kapa'a, Hawaii. Interested parties may submit oral or written comments on the proposal to the Service at the hearing.

DATES: The comment period on the proposal is reopened on January 13, 1993. The public hearing will be held from 6 to 8 p.m. on Wednesday, February 10, 1993, in Kapa'a, Hawaii. The comment period, which originally closed on December 30, 1991, now closes on February 20, 1993.

ADDRESSES: The public hearing will be held in the auditorium of the Kapa'a Public Library, 1464 Kuhio Highway, Kapa'a, Kauai, Hawaii. Written comments and materials should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Joan E. Canfield, at the above address (telephone 808/541–2749).

SUPPLEMENTARY INFORMATION:

Background

Brighamia insignis, Cyanea asarifolia, Cyrtandra limahuliensis, Delissea rhytidosperma, Diellia laciniata, Exocarpos luteolus, Hedyotis cookiana, Hibiscus clayi, Lipochaeta fauriei, Lipochaeta micrantha, Lipochaeta waimeaensis, Lysimachia filifolia, Melicope haupuensis, Melicope knudsenii, Melicope pallida, Melicope quadrangularis, Munroidendron racemosum, Nothocestrum peltatum, Peucedanum sandwicense, Phyllostegia waimeae, Pteralyxia kauaiensis, Schiedea spergulina, and *Solanum sandwicense* are endemic to or have the majority of their populations on the island of Kauai, Hawaii. Sixteen of these species are endemic to Kauai; two additional species are now found only on that island. One of these species is now or was previously also known from Niihau, five from Oahu, two from Molokai, two from Maui, and one from the island of Hawaii.

The 23 plant species and their habitats have been variously affected or are currently threatened by one or more of the following: Habitat degradation by wild, feral, or domestic animals (goats, pigs, mule deer, cattle, and red jungle fowl); competition for space, light, water, and nutrients by naturalized, introduced vegetation; erosion of substrate produced by weathering or human- or animal-caused disturbance; recreational and agricultural activities; habitat loss from fires; and predation by animals (goats and rats). Due to the small number of existing individuals and their very narrow distributions, these species and most of their populations are subject to an increased likelihood of extinction and/or reduced reproductive vigor from stochastic events.

The proposed rule to list these plants as endangered was published on October 30, 1991 (56 FR 55862). The comment period for the proposal originally closed on December 30, 1991. In order to accommodate the hearing, the Service reopens the public comment period. Written comments may now be submitted until February 20, 1993, to the Pacific Islands Office (See **ADDRESSES** section).

A public hearing will be held on Wednesday, February 10, 1993, from 6 to 8 p.m., in the auditorium of the Kapa'a Public Library, 1464, Kuhio Highway, Kapa'a, Kauai, Hawaii. Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation. There are no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments will be given the same weight as oral comments. Written comments may be submitted at the hearing or mailed to the Pacific Islands Office (see **ADDRESSES** section).

Author

The primary author of this notice is Dr. Joan E. Canfield, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541–2749).

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: January 6, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–741 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

Pacific Coast Groundfish Fishery

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS issues this notice that the Pacific Fishery Management Council has submitted Amendment 7 (amendment) to the Pacific Coast Groundfish Fishery Management Plan (FMP) for review by the Secretary of Commerce (Secretary). Amendment 7 proposes to establish a framework authority to reduce bycatch of nongroundfish species in the groundfish fishery. Written comments are invited from the public. Copies of the amendment may be obtained from the address below.

DATES: Written comments must be received on or before March 15, 1993.

ADDRESSES: Comments should be sent to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way NE., BIN C15700-Bldg. 1, Seattle, WA 98115–0070, or Dr. Gary Matlock, Acting Director, Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213. Copies of the amendment are available upon request from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 SW. First Avenue, Portland, OR 97201–5344.

FOR FURTHER INFORMATION CONTACT: William L. Robinson, Fisheries Management Division, Northwest Region, NMFS, at 206–526–6140; Rodney R. McInnis, Fisheries Management Division, Southwest Region, NMFS, at 310–980–4040; or Lawrence D. Six, Pacific Fishery Management Council, at 503–221–6352.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* (Magnuson Act), requires that a regional fishery management council submit any amendment to a fishery management plan it has prepared to the Secretary for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receipt of the amendment, immediately publish a notice stating that the amendment is available for public review and comment. The Secretary will consider all public comments received during the public comment period in deciding whether to approve the amendment for implementation.

Amendment 7 to the FMP would establish the authority to impose management measures on the groundfish fishery to reduce the bycatch of salmon and other non-groundfish species. The amendment would: (1) Add a new management objective under the conservation goal (i.e., prevent overfishing by managing for appropriate harvest levels, and prevent any net loss of the habitat of living marine resources) currently contained in section 2.1 of the FMP; and (2) establish a regulatory process (framework) that could be used to implement specific management measures when a conservation issue has been identified or in response to requirements of the Endangered Species Act or other applicable law. The amendment itself would not impose any management measures.

An environmental assessment (required under the National Environmental Policy Act) and a regulatory impact review (satisfying the requirements of Executive Order 12291) are incorporated in the amendment. All are available for public review as noted above.

Proposed regulations to implement this amendment are scheduled to be published within 15 days of this notice.

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries, Fishing, Reporting and recordkeeping requirements.

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

Dated: January 7, 1993.

David S. Crestin,

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

[FR Doc. 93–691 Filed 1–7–93; 3:27 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 8
Wednesday, January 13, 1993

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

Agricultural Research Service

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Government Owned Inventions Available for Licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technial and licensing information on these inventions may be obtained by writing to: M. Ann Whitehead, Patent Coordinator, USDA, ARS, Room 403, Bldg. 005, BARC-West, Beltsville, Maryland 20705; 301–504–6786 or Fax 301–504–5060. All patent applicants may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia, 22161; NTIS Sales Desk 703–487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

6–436,541, (U.S. 4,495,207) Production of Food-Grade Corn Germ Product by Supercritical Fluid Extraction
6–445,112, (U.S. 4,474,755) Bagworm Moth Attractant and Plant Protectant
6–500,049, (U.S. 4,522,838) 2-Acetyl-1-Pyrroline and Its Use for Flavoring Foods
6–527,894, (U.S. 4,443,222) Zinc Pyrithione Process to Impart Antimicrobial Properties to Textiles
6–534,015, (U.S. 4,493,854) Production of Defatted Soybean Products by Supercritical Fluid Extraction
6–539,907, (U.S. 4,582,704) Control of Bean Rust with *Bacillus subtilis*
6–566,469, (U.S. 4,523,827) Sesbanimide and the Use Thereof in Treating Leukemic Tumors
6–635,945, (U.S. 4,737,371) Process for Stabilizing Whole Cereal Grains
6–860,351, (U.S. 4,721,727) Control of Pests with Annonaceous Acetogenins
6–922,616, (U.S. 4,826,765) Yeast Strains Genetically Engineered to Produce Wheat Gluten Proteins
7–123,411 (U.S. 4,839,450) Moisture-Shrinkable Films From Starch Graft Copolymers
7–140,470, (U.S. 4,835,818) Differential Ginning Process and Apparatus

M. Ann Whitehead,
National Patent Coordinator.

[FR Doc. 93–760 Filed 1–12–93; 8:45 am]
BILLING CODE 3410–03–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 46–90]

Foreign-Trade Zone 72—Indianapolis, Indiana; Application for Subzone; Forklift Truck Plant; Columbus, Indiana; Amendment to Application

Notice is hereby given that the application submitted by the Indianapolis Airport Authority, grantee of FTZ 72, requesting special-purpose subzone status for the forklift truck manufacturing facility of Toyota Industrial Equipment Mfg., Inc. (TIEM) (subsidiary of Toyota Automatic Loom Works, Ltd. of Japan) in Columbus, Indiana (55 FR 49662, 11/30/90) has been amended to limit the scope of the authority requested in the application with respect to components.

The original application requested authority to use full zone procedures for a wide range of foreign-sourced components so that TIEM could choose the finished product duty rate (duty-free) for those components (duty rates to 11%). The amendment limits the request to foreign-sourced engines and transmissions (duty rates to 5.7%). All other components would be admitted in domestic or foreign privileged status.

The application remains otherwise unchanged.

The comment period is reopened until March 1, 1993.

Dated: January 6, 1993.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 93–798 Filed 1–12–93; 8:45 am]
BILLING CODE 3510–DS–M

[Docket No. 69–91]

Foreign-Trade Zone 41—Milwaukee, Wisconsin; Application for Expansion; Amendment of Application

The pending application of the Foreign-Trade Zone of Wisconsin, Ltd., grantee of FTZ 41, requesting authority to reorganize and expand its zone in Milwaukee, Wisconsin, within the Milwaukee Customs port of entry, (Docket 69–91, filed 10/29/91, 56 FR 57513, 11/12/91 and amended 10/2/92, 57 FR 45606), has been further amended to request authority for an additional site.

The initial application requested authority to add a new site (Port of Milwaukee complex, 300 acres) to the zone project and to delete three existing sites.

This amendment requests authority for an additional site (210,500 sq. ft.) located at 1925 E. Kelly Lane, Cudahy, Wisconsin. It would accommodate the activity formerly conducted at Site 1, which is being deleted. The application, as amended, would decrease the total number of sites for the FTZ 41 project to three.

The comment period is reopened until February 12, 1993.

The application and amendment material are available for public inspection at the following locations:

U.S. Department of Commerce, District Office, 517 East Wisconsin Avenue, room 606, Milwaukee, Wisconsin 53202.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue, NW., room 3716, Washington, DC 20230.

Dated: January 6, 1993.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 93–799 Filed 1–12–93; 8:45 am]
BILLING CODE 3510–DS–M

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 353.22 or 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than January 31, 1993, interested parties may request administrative review of the following orders, finding, or suspension of investigations, with anniversary dates in January for the following periods:

Antidumping duty proceedings	Period
Brazil: brass sheet & strip (A–351–603).	01/01/92–12/31/92.
Canada: brass sheet & strip (A–122–601).	01/01/92–12/31/92.
Canada: color picture tubes (A–122–605).	01/01/92–12/31/92.
France: annhydrous sodium Metrasilicate (A–427–098).	01/01/92–12/31/92.
Japan: color picture tubes (A–588–609).	01/01/92–12/31/92.
Singapore: color picture tubes (A–559–601).	01/01/92–12/31/92.
Spain: potassium permanganate (A–469–007).	01/01/92–12/31/92.
South Africa: low-fuming brazing copper wire and rod (A–791–502).	01/01/92–12/31/92.
Taiwan: certain stainless steel cooking ware (A–583–603).	01/01/92–12/31/92.
The People's Republic of China: potassium permanganate (A–570–001).	01/01/92–12/31/92.
The Republic of Korea: brass sheet and strip (A–580–603).	01/01/92–12/31/92.
The Republic of Korea: color picture tubes (A–580–605).	01/01/92–12/31/92.
The Republic of Korea: stainless steel cooking ware (A–580–601).	01/01/92–12/31/92.
Suspension agreements	**Period**
Canada: potassium chloride (A–122–701).	01/01/92–12/31/92.
Colombia: miniature carnations (C–301–601).	01/01/92–12/31/92.
Costa Rica: fresh cut flowers (C–223–601).	01/01/92–12/31/92.
Hungary: truck trailer axle and brake assemblies (A–437–001).	01/01/92–12/31/92.
Countervailing duty proceedings	
Argentina: non-rubber footwear (C–357–052).	01/01/92–12/31/92.
Brazil: brass sheet and strip (C–351–604).	01/01/92–12/31/92.
Ecuador: fresh cut flowers (C–331–601).	01/01/92–12/31/92.
The Republic of Korea: stainless steel cookware (C–580–602).	01/01/92–12/31/92.
Spain: stainless steel wire rod (C–469–004).	01/01/92–12/31/92.
Taiwan: stainless steel cookware (C–583–604).	01/01/92–12/31/92.
Thailand: butt-weld pipe fittings (C–549–804).	01/01/92–12/31/92.

In accordance with §§ 353.22(a) and 355.22(a) of the Commerce regulations, an interested party may request in writing that the Secretary conduct an administrative review of specified individual producers or resellers covered by an order, if the requesting person states why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B–099, U.S. Department of Commerce, Washington, DC 20230. Further, in accordance with § 353.31 or 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by January 31, 1993.

If the Department does not receive, by January 31, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: January 6, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 93–794 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by Zenith Electronics Corporation, the Department of Commerce has conducted an administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan. This notice covers 14 manufacturers/exporters and the period April 1, 1991 through March 31, 1992. The review indicates the existence of dumping margins for certain firms during the period.

As a result of this review, we have preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: John Kugelman or Michael J. Heaney, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 482–0649/4475.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 20241) the final results of the 1990–1991 (seventh) administrative review of the antidumping duty order on color television receivers, except for video

monitors, from Taiwan (49 FR 18336, April 30, 1984). In April 1992, Zenith Electronics Corporation, a domestic interested party, requested, in accordance with § 353.22(a) of the Commerce Regulations, that we conduct an administrative review for the period April 1, 1991 through March 31, 1992. We published a notice of initiation of the antidumping duty administrative review on May 22, 1992 (57 FR 27169).

The Department initiated a review for Action Electronics Co., Ltd. (Action), AOC International (AOC), Fuani Electric Co., Ltd. (Funai), Hitachi Television (Taiwan) Ltd., (Hitachi), Kuang Yuan Co., Ltd. (Kuang Yuan), Nettek Corp. Ltd. (Nettek), Paramount Electronics (Paramount), Proton Electronic Industrial Co., Ltd. (Proton), Sampo Corporation (Sampo), Sanyo Electric (Taiwan) Co., Ltd. (Sanyo), Shinlee Corporation (Shinlee), Tatung Corporation (Tatung), Teco Electric & Machinery Co., Ltd. (Teco), and Thomson Consumer Electronics, Inc./ TCE Television Taiwan Limited (Thomson) for the 1991–1992 period.

The Department has now conducted a review for this period in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of the Review

Imports covered by this review are shipments of color television receivers, except for video monitors, complete or incomplete from Taiwan. The orders covers all color television receivers regardless of tariff classification. This merchandise is classified under the Harmonized Tariff Schedule (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers 14 manufacturers/ exporters of Taiwanese color television receivers, except for video monitors, and the period April 1, 1991 through March 31, 1992.

AOC, Funai, Hitachi, Kuang Yuan, Sampo, and Sanyo had no shipments of the subject merchandise, and Nettek, Paramount, Shinlee, and Teco failed to respond to our questionnaire. For those firms which had no shipments, we continued the deposit rate for each firm for the last period for which a review has been completed and during which that firm had shipments. For those firms that failed to respond to our questionnaire, we used as the best information available (BIA), the highest margin among respondent firms in the current review period, or the highest rate received by any firm in prior reviews whichever was higher. See Final results of Antidumping Duty Administrative Review, Color Television Receivers, Except for Video Monitors from Taiwan, 57 FR 20241 (May 12, 1992).

On June 22, 1992, Kuang Yuan requested revocation based upon it's sales at not less than foreign market value during the periods April 1, 1986 through March 31, 1987, and April 1, 1989 through March 31, 1991, and no shipments of the subject merchandise during the periods April 1, 1987 through March 31, 1989, and April 1, 1991 through March 31, 1992.

On March 28, 1989, the Department changed its regulations regarding revocation of antidumping duty orders. See Antidumping Duties, final rule, 54 FR 12742 (preamble). See also, 19 CFR 353.25 (1992). Under the new regulations periods of no shipments are no longer a separately listed basis upon which the Department will revoke an antidumping duty order as it pertains to a particular manufacturer/exporter. Therefore, though periods of no shipments may be considered among other factors when the Department is considering a request for revocation pursuant to 19 CFR 353.25(d), that factor alone is no longer a sufficient basis for revocation. See preamble at 12758.

Section 353.25(a)(2)(i) of our regulations states that an order may be revoked in part if one or more producers "have sold the merchandise at not less than foreign market value for a period of at least three consecutive years." Since Kuang Yuan had no shipments during the current review period, and since a period of "no shipments" is not equivalent to a period of sales "at not less than fair value", Kuang Yuan has failed to meet the revocation requirements required by § 353.25(a)(2)(i). Moreover, we do not consider periods of "no shipments" intermixed with periods of sales at not less than foreign market value to be a sufficient basis for revocation of an antidumping order pursuant to § 353.25(d)(ii). We, therefore, are denying Kuang Yuan's request for revocation.

United States Price

In calculating United States Price (U.S. price), we used purchase price or exporters sales price (ESP), both as defined in section 772 of the Tariff Act. Purchase price and ESP were based on the packed, f.o.b. prices to the first unrelated purchasers in the United States.

We made deductions, where appropriate for export promotion fees, finders' fees, foreign and U.S. brokerage fees, foreign inland freight, ocean freight, marine insurance, U.S. inland freight, U.S. Customs duties, discounts, rebates, credit expenses, commissions, warranties, royalties, advertising expenses, bank charges, and U.S. indirect selling expenses.

We accounted for any commodity taxes imposed in Taiwan, but not collected by reason of exportation to the United States, by multiplying the appropriate duty paying value (DPV) of the merchandise sold in the United States by the tax rate in Taiwan, and adding the result to the U.S. price. In Taiwan, the DPV is the ex-factory price for merchandise produced in a bonded factory; for merchandise produced in an unbonded factory, the DPV is the price to the first unrelated purchaser in the United States.

We accounted for the value added tax (VAT) imposed in Taiwan, but not collected by reason of exportation to the United States, by multiplying the U.S. invoice value by the VAT rate, and adding the result to U.S. price. Where appropriate, we also made an addition to U.S. price for import duties which were rebated, or which were not collected, by reason of the exportation of the merchandise to the United States.

No other adjustments were claimed or allowed.

Foreign Market Value

In calculating FMV, we used home market price or constructed value, as defined in section 773 of the Tariff Act, as appropriate.

Home Market price was used when sufficient quantities of such or similar merchandise were sold in the home market above the cost of production (COP) to provide a reasonable basis for comparison. We sued home market sales as the basis for FMV for Action, Proton, and Tatung.

We used constructed value for Thomson since Thomson had insufficient sales of such or similar merchandise in both the home and third-country markets. We used constructed value for Proton for those U.S. models for which we could find no contemporaneous, home-market sales of such or similar merchandise above the COP.

Home market price was based upon the packed, delivered price to unrelated purchasers in the home market. Where applicable, we made deductions for inland freight, discounts, rebates, credit, warranties, royalties, advertising, post-sale warehousing, commissions, differences in the physical characteristics of the merchandise, and differences in packing.

We also made adjustments, where applicable, for indirect selling expenses to offset commissions, and to offset U.S. selling expenses deducted in ESP calculations, but not for amounts exceeding the U.S. commissions and indirect selling expenses. For Action, we made adjustments for U.S. indirect selling expenses on purchase price sales, in amounts not exceeding home market commissions. Finally, we made circumstance of sale (COS) adjustments for commodity tax differences and VAT differences, where appropriate.

No other adjustments were claimed or allowed.

Constructed value consisted of the sum of the costs of materials, fabrication, general expenses, profit, and the cost of export packing. Because the statutory minimum of 10 percent of the cost of materials and fabrication exceeded the actual amount of general expenses, we added the statutory minimum amount. Because the statutory minimum of eight percent of the sum of the cost of materials, fabrication, and general expenses exceeded the actual profit, we added the statutory minimum. See section 773(e)(1)(B) of the Tariff Act.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist:

Manufacturer/exporter	Review period	Margin (percent)
Action	04/01/91–03/31/92	16.11
AOC	04/01/91–03/31/92	[1]23.89
Funai	04/01/91–03/31/92	[1]23.89
Hitachi	04/01/91–03/31/92	[1]23.89
Kuang Yuan	04/01/91–03/31/92	[1]0.00
Nettek	04/01/91–03/31/92	[2]23.89
Paramount	04/01/91–03/31/92	[2]23.89
Proton	04/01/91–03/31/92	21.94
Sampo	04/01/91–03/31/92	[1]0.78
Sanyo	04/01/91–03/31/92	[1]4.66
Shinlee	04/01/91–03/31/92	[2]23.89
Tatung	04/01/91–03/31/92	18.27
Teco	04/01/91–03/31/92	[2]23.89
Thomson	04/01/91–03/31/92	.25

[1] No shipments during the period; rate is from the last review in which there were shipments.
[2] No response; we therefore used as best information available either the highest margin among respondent firms in the current review, or the highest rate received by any firm in prior reviews, whichever was higher.

Interested parties may request a disclosure within 5 days of publication of this notice and may request a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than 37 days after the day of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. Price and FMV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of color television receivers, other than video monitors, from Taiwan, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for reviewed firms will be those established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company specific rate; (3) if the exporter is not a firm covered in this review, earlier reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of this review, earlier reviews, or the original investigation, whichever is the most recent; (4) the cash deposit rate for any future entries from all other manufacturers or exporters, who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firms or any previously reviewed firm, will be the "All Others" rate established in the final results of this administrative review. This rate represents the highest rate for any firm in this administrative review (whose first shipments to the United States were reviewed), other than those firms receiving a rate entirely based on the 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 preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: January 6, 1993.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–796 Filed 1–12–93; 8:45 am]
BILLING CODE 3510–DS–M

[C–357–404]

Certain Textile Mill Products From Argentina; Final Court Decision and Rescission of Revocation of Countervailing Duty Order Correction

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

ACTION: Correction.

On November 18, 1992, the Department of Commerce (the Department) published in the **Federal Register** (57 FR 54368) notice of the final court decision and rescission of countervailing duty order on certain textile mill products from Argentina.

On page 54369 in the second column, the first paragraph should read: "Thus, consistent with the decision of the CIT in Belton (Slip op. 92–39), and the CIT's subsequent May 7, 1992 order, Commerce hereby rescinds its August 13, 1990, revocation of the countervailing duty order on certain textile mill products from Argentina. Commerce hereby reinstates the order, effective May 18, 1992, and continues to suspend liquidation of entries of the subject merchandise. In accordance with the countervailing duty order, published at 50 FR 9846 (March 12, 1985), Commerce is directing the U.S. Customs Service to require a cash deposit in the amount of 4.53 percent *ad valorem*, the last published deposit rate, for each entry of the subject merchandise from Argentina which is entered, or withdrawn from warehouse, for consumption on or after the date of issuance of this notice, November 9, 1992."

EFFECTIVE DATE: November 18, 1992.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Kelly Parkhill, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; Telephone: (202) 482–2786.

Dated: January 6, 1993.

Rolf Th. Lundberg, Jr.,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–795 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–DS–M

[C–201–405, C–357–404, C–549–401]

Certain Textile Mill Products From Mexico, Certain Apparel From Argentina, and Certain Apparel From Thailand

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

ACTION: Certain textile mill products from Mexico, certain apparel from Argentina, and certain apparel from Thailand: Notice of amendment to the existing conversion of the scopes of these orders from the Tariff Schedules of the United States Annotated to the Harmonized Tariff Schedule.

SUMMARY: On January 1, 1989, the United States fully converted to the international harmonized system of tariff classification. On January 11, 1989, the Department of Commerce (the Department) published the Conversion to Use of the Harmonized Tariff Schedule of Classifications for Antidumping and Countervailing Duty Proceedings (54 FR 993; January 11, 1989) (1989 Conversion) for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. On September 15, 1992 (57 FR 42545) the Department published a notice of proposed amendment to the existing conversion; interested parties were invited to comment on this proposed amended conversion. Based on our analysis of the comments received, the Department is now publishing an amended conversion of the scopes of the countervailing duty orders on textile mill products from Mexico and on apparel from Argentina and Thailand.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Christopher Beach, Dana Mermelstein, or Maria MacKay, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone (202) 482–2786.

Background

In 1985, the Department issued the following countervailing duty orders:

Certain Textile Mill Products from Mexico (C–201–405) (50 FR 10824; March 18, 1985),

Certain Apparel from Argentina (C–357–404) (50 FR 9846; March 12, 1985), and

Certain Apparel from Thailand (C–549–401) (50 FR 9818; March 12, 1985).

The scopes of these orders were originally defined solely in terms of the Tariff Schedules of the United States Annotated (TSUSA) item numbers; no narrative product description was provided. On January 1, 1989, the United States fully converted from the TSUSA to the Harmonized Tariff Schedule (HTS). Section 1211 of the Omnibus Trade and Competitiveness Act of 1988 directed the Department to "take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule [for] all * * * orders.* * *" in effect at the time of the implementation of the HTS.

Accordingly, on January 11, 1989, after reviewing comments received from the public, the Department published the 1989 Conversion for all antidumping and countervailing duty orders in effect or investigations in progress as of January 1, 1989. The notice also included the conversion of the scopes of the referenced textile and apparel orders from TSUSA to HTS item numbers. The 1989 Conversion was based on a one-to-one correspondence of the TSUSA and HTS item numbers. In the notice, the Department stated that the conversion could be amended, as warranted, at any time during the applicable proceeding as a result of the submission of comments or new factual information.

As a result of comments submitted to the Department by the importing public and advice received from the U.S. Customs Service, the Department determined that the 1989 Conversion did not accurately reflect the scopes of the referenced orders and, thus, should be amended. The Department, with the assistance of the U.S. Customs Service and the U.S. International Trade Commission (USITC), has compared the TSUSA and the HTS classification systems. Specifically, for each of the orders mentioned above, we compared the TSUSA-defined scopes and the HTS-defined scopes provided by the 1989 Conversion, and identified those HTS numbers that more reasonably correspond with the scopes of the referenced orders.

On September 15, 1992 (57 FR 42545) the Department published a notice of proposed amendment to the existing conversion. Based on our analysis of the comment received, the Department has now amended the 1989 Conversion governing the countervailing duty orders on textile mill products from Mexico and on apparel from Argentina and Thailand. The changes are reflected in the attached Appendix.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our proposed amended conversion. We received a comment from Finetex Yarn Corporation ("Finetex"), a U.S. importer of certain textile mill products from Mexico.

Comment 1: Finetex states that the Department should exclude certain acrylic yarns classified under HTS subheadings 5509.31.00 and 5509.32.00 from the proposed amended scope of the order on certain textile mill products from Mexico. Finetex contends that blended yarns of acrylic/nylon, containing continuous filament nylon were not covered by the petition and are not within the scope of this order. As defined by TSUSA, blends consisting of spun acrylic and continuous filament nylon were classifiable under item number 310.6038 which was not within the scope of this order. In addition, Finetex argues that any subsidy attributable to merchandise covered by the TSUSA item number listed above was excluded from the Department's subsidy calculations in every administrative review of this order covering the periods 1985 through 1988. In the 1989/1990 review periods the Department continued this practice by basing its calculations on those subsidies attributable to the covered 100 percent acrylic yarns, excluding the acrylic/nylon blends discussed above, even though both were classified under the same HTS numbers.

Finetex contends that the Department lacks the authority to alter the scope of an order so as to expand it beyond the original intent *(Smith Corona Corp.* v. *United States,* 915 F.2d 683 (Fed. Cir.1990)). The Department must ensure that its conversion for this order provide specifically for the continued exclusion of singles and plied yarns of acrylic/nylon blends containing continuous filament nylon.

Department's position: We agree with Finetex, the singles and plied yarns of acrylic/nylon blends containing continuous filament nylon were not covered in the original scope. For this reason, the Department did not examine any subsidy attributable to this merchandise in the administrative reviews of this order for calendar years 1985 through 1990. Therefore, we have amended the conversion of the scope of the order on certain textiles from Mexico by providing an annotation to HTS items numbers 5509.31.00 (singles)

and 5509.32.00 (plied) which specifically excludes singles and plied yards of acrylic/nylon blends containing continuous filament from the scope of this order.

Instructions to Customs

The Department will instruct the Customs Service to liquidate without regard to countervailing duties all unliquidated entries of the subject merchandise not covered in the attached Appendix that were exported on or after January 1, 1989. The Department will also instruct Customs to liquidate at the appropriate rate all unliquidated entries of the subject merchandise covered in the attached appendix that were exported on or after January 1, 1989.

In addition, the suspension of liquidation for all entries of the subject merchandise not covered in the attached appendix, that are entered or withdrawn from warehouse on or after the date of publication of this notice, is terminated. The Department will also instruct the Customs Service to continue to suspend liquidation and collect the appropriate cash deposit of estimated countervailing duties for the subject merchandise listed in the attached Appendix, entered or withdrawn from warehouse on or after the date of publication of this notice.

Dated: January 6, 1993.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

Appendix

Certain Apparel Argentina C–357–404

6104.41.00,	6104.43.10,	6104.44.10,
6104.51.00,	6104.53.10,	6104.61.00,
6104.63.15,	6105.10.00,	6105.20.20,
6106.10.00,	6106.20.10,	6106.90.10,
6109.90.20,	6110.10.20,	6110.20.20,
6111.10.00,	6112.41.00,	6112.49.00,
6115.20.00,	6115.91.00,	6115.93.10,
6115.99.14,	6116.91.00,	6116.93.15,
6201.12.20,	6202.11.00,	6202.13.30,
6202.91.10,	6202.91.20,	6202.92.20,
6202.93.40,	6203.22.30,	6203.42.40,
6204.11.00,	6204.13.10,	6204.19.10,
6204.21.00,	6204.31.20,	6204.33.40,
6204.39.20,	6204.41.20,	6204.42.30,
6204.43.30,	6204.44.30,	6204.51.00,
6204.53.20,	6204.59.20,	6204.61.00,
6204.63.25,	6204.69.20,	6205.10.20,
6206.20.30,	6206.40.25,	6209.10.00,
6209.20.10,	6209.20.50,	6209.90.30,
6211.12.30,	6211.41.00,	6214.39.00,
6214.40.00.		

Certain Textile Mill Products Mexico C–201–405

4010.10.10,	5109.10.60,	5109.90.60,
5111.11.70,	5111.19.60,	5111.20.90,
5111.30.90,	5112.20.30,	5112.30.30,
5204.11.00,	5204.19.00,	5204.20.00,
5205.11.10,	5205.12.10,	5205.12.20,
5205.13.10,	5205.13.20,	5205.14.10,
5205.23.00,	5205.24.00,	5205.25.00,
5205.31.00,	5205.32.00,	5205.33.00,
5205.34.00,	5205.42.00,	5205.43.00,
5205.44.00,	5206.11.00,	5206.12.00,
5206.13.00,	5206.14.00,	5206.15.00,
5206.31.00,	5206.32.00,	5206.33.00,
5206.34.00,	5206.35.00,	5206.41.00,
5206.42.00,	5206.43.00,	5206.44.00,
5206.45.00,	5207.10.00,	5207.90.00,
5208.11.20,	5208.12.40,	5208.13.00,
5208.19.40,	5208.21.20,	5208.21.40,
5208.22.40,	5208.22.60,	5208.23.00,
5208.29.40,	5208.29.60,	5208.31.40,
5208.31.60,	5208.31.80,	5208.32.30,
5208.32.40,	5208.32.50,	5208.33.00,
5208.39.20,	5208.39.80,	5208.41.40,
5208.41.60,	5208.41.80,	5208.42.30,
5208.42.40,	5208.42.50,	5208.43.00,
5208.49.40,	5208.51.40,	5208.51.60,
5208.51.80,	5208.52.30,	5208.52.40,
5208.52.50,	5208.53.00,	5208.59.20,
5208.59.80,	5209.11.00,	5209.19.00,
5209.31.60,	5209.32.00,	5209.41.60,
5209.43.00,	5209.51.60,	5209.52.00,
5210.21.40,	5210.21.60,	5210.22.00,
5210.29.40,	5210.29.60,	5210.32.00,
5210.39.40,	5210.39.60,	5210.52.00,
5210.59.60,	5211.31.00,	5211.51.00,
5401.10.00,	5401.20.00,	5402.10.30,
5402.20.30,	5402.31.30,	5402.31.60,
5402.32.30,	5402.32.60,	5402.33.30,
5402.41.00,	5402.43.00,	5402.49.00,
5402.51.00,	5402.52.00,	5402.59.00,
5403.20.30,	5403.20.60,	5406.10.00,
5406.20.00,	5407.41.00,	5407.42.00,
5407.43.20,	5407.44.00,	5407.52.20,
5407.53.10,	5407.53.20,	5407.54.00,
5407.60.05,	5407.60.10,	5407.60.20,
5407.91.05,	5407.92.05,	5407.93.05,
5407.94.05,	5408.21.00,	5408.22.00,
5408.23.20,	5408.24.00,	5408.31.05,
5408.32.05,	5408.33.05,	5408.34.05,
5508.10.00,	5508.20.00,	5509.12.00,
5509.21.00,	5509.22.00,	5509.31.00,
5509.32.00,	5509.41.00,	5509.51.30,
5509.51.60,	5509.53.00,	5509.69.20,
5509.69.40,	5509.99.20,	5509.99.40,
5511.10.00,	5511.20.00,	5511.30.00,
5513.11.00,	5513.13.00,	5513.19.00,
5513.21.00,	5513.23.00,	5513.29.00,
5513.33.00,	5513.39.00,	5513.41.00,
5513.43.00,	5513.49.00,	5514.11.00,
5514.19.00,	5514.21.00,	5514.29.00,
5514.41.00,	5514.49.00,	5515.13.05,
5516.11.00,	5516.12.00,	5516.13.00,
5516.14.00,	5516.41.00,	5516.42.00,
5516.43.00,	5516.44.00,	5516.91.00,
5516.92.00,	5516.93.00,	5516.94.00,
5601.10.20,	5601.22.00,	5602.10.90,
5602.21.00,	5602.90.60,	5603.00.90,
5607.41.30,	5607.49.15,	5607.49.25,
5607.50.20,	5608.11.00,	5701.10.16,
5701.10.20,	5701.90.20,	5702.10.90,
5702.31.10,	5702.31.20,	5702.32.10,
5702.32.20,	5702.41.10,	5702.41.20,
5702.42.10,	5702.42.20,	5702.51.20,
5702.51.40,	5702.52.00,	5702.91.30,
5702.91.40,	5702.92.00,	5703.10.00,
5703.20.10,	5703.20.20,	5703.30.00,
5704.10.00,	5704.90.00,	5705.00.20,
5801.31.00,	5801.33.00,	5801.34.00,
5801.35.00,	5801.36.00,	5803.10.00,
5803.90.30,	5804.10.00,	5804.21.00,
5804.29.00,	5804.30.00,	5805.00.25,
5806.32.10,	5810.10.00,	5810.91.00,
5810.92.00,	5902.10.00,	5902.20.00,
5902.90.00,	5911.10.20,	5911.20.10,
5911.31.00,	5911.32.00,	6001.10.20,
6001.22.00,	6001.92.00,	6002.10.80,
6002.20.10,	6002.20.60,	6002.30.20,
6002.43.00,	6002.93.00,	6301.10.00,
6301.20.00,	6301.30.00,	6301.40.00,
6301.90.00,	6302.22.10,	6302.22.20,
6302.32.10,	6302.32.20,	6302.40.10,
6302.40.20,	6302.51.10,	6302.51.20,
6302.51.30,	6302.51.40,	6302.52.10,
6302.52.20,	6302.53.00,	6302.59.00,
6302.91.00,	6302.92.00,	6302.93.20,
6302.99.20,	6303.12.00,	6303.19.00,
6303.92.00,	6303.99.00,	6304.11.20,
6304.19.05,	6304.19.15,	6304.19.20,
6304.91.00,	6304.92.00,	6304.93.00,
6304.99.15,	6304.99.60,	7019.20.10,
9404.90.90;		

5209.32.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5209.52.00 Coverage limited to fabrics, not napped, of numbers 17 to 33.

5402.10.30 Coverage limited to yarns provided for in subheading 5402.10.3040.

5402.20.30 Coverage limited to yarns provided for in subheading 5402.20.3040.

5402.33.30 Coverage limited to yarns, valued not over $2.20 per kilogram.

5402.41.00 Coverage limited to yarns provided for in subheading 5402.41.0040.

5402.43.00 Coverage limited to yarns provided for in subheading 5402.43.0040.

5402.49.00 Coverage limited to yarns provided for in subheadings 5402.49.0070 and 5402.49.0080.

5509.31.00 not to include single blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

5509.32.00 not to include plied blended yarns containing a combination of noncontinuous acrylic and continuous nylon filaments.

Certain Apparel Thailand C–549–401

6101.20.00,	6102.20.00,	6104.22.00,
6104.32.00,	6104.42.00,	6104.43.20,
6104.44.20,	6104.52.00,	6104.62.10,
6104.62.20,	6105.10.00,	6106.10.00,
6106.20.20,	6110.10.10,	6110.10.20,
6110.20.20,	6110.30.15,	6110.30.30,
6112.11.00,	6112.20.20,	6112.31.00,
6112.39.00,	6112.41.00,	6112.49.00,
6114.20.00,	6115.19.00,	6117.10.10,
6117.10.20,	6117.20.00,	6117.90.00,
6201.12.20,	6201.92.20,	6202.11.00,
6202.13.30,	6202.19.00,	6202.91.10,
6202.91.20,	6202.92.20,	6202.93.40,
6202.93.50,	6202.99.00,	6203.11.20,
6203.12.10,	6203.19.10,	6203.22.30,
6203.32.20,	6203.42.40,	6204.11.00,
6204.12.00,	6204.13.10,	6204.13.20,
6204.19.10,	6204.19.20,	6204.19.30,
6204.21.00,	6204.22.30,	6204.23.00,
6204.31.20,	6204.33.40,	6204.39.20,
6204.39.80,	6204.41.20,	6204.42.30,
6204.43.30,	6204.43.40,	6204.44.30,
6204.44.40,	6204.49.50,	6204.51.00,
6204.53.20,	6204.59.20,	6204.59.40,
6204.61.00,	6204.62.20,	6204.62.40,
6204.63.25,	6204.69.20,	6204.69.90,
6205.20.20,	6206.30.20,	6206.30.30,
6206.40.30,	6206.90.00,	6211.12.30,

6211.20.50, 6214.20.00, 6214.90.00, 6215.20.00, 6215.90.00.

[FR Doc. 93–797 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 921115–2315]

Market Development Cooperator Program

AGENCY: International Trade Administration (ITA), Commerce.

ACTION: Notice.

SUMMARY: The mission of ITA is to promote U.S. exports and to strengthen the international trade position of the United States. The degree to which ITA can fulfill its mission is enhanced through partnerships with the private sector. To encourage such partnerships, ITA announces a pilot program, the Market Development Cooperator Program, to assist trade associations and nonprofit industry organizations working together with ITA to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States. For purposes of this pilot program, "nonagricultural goods and services" means goods and services other than agricultural products as defined in 7 U.S.C. 451. "Produced in the United States" means having substantial inputs of materials and labor originating in the United States, such inputs constituting at least 50 percent of the value of the good or service to be exported.

The advantage of joint private sector-ITA effort is that it permits the Government and private industry to pool expertise and funds so that each gets more mileage out of its market development resources. Partnerships of this sort also may offer a sharper focus on long-term export market development than do traditional trade promotion activities and serve as a mechanism for improving Government-industry relations.

While the Market Development Cooperator Program is sponsored, guided and funded by the Department of Commerce with a matching requirement by the recipient, applications are expected to develop, initiative and carry out market development project activities. As an active partner, ITA will provide assistance identified by the applicant as being essential to the achievement of project goals and objectives. U.S industry is best able to assess its problems and needs in the foreign marketplace and to recommend innovative solutions and programs that can be the formula to success in international trade.

Examples of activities that might be included in an applicant's project are described below. No one of these activities or any combination of these activities must be included for a proposal to receive favorable consideration. Applicants are encouraged to purpose activities that (1) would be most appropriate to the market development needs of their industry or industries and (2) display the imagination and innovation of the private sector working in partnership with the Government to obtain the maximum market development impact.

DATES: Completed applications must be submitted or be postmarked no later than February 12, 1993.

ADDRESSES: To obtain a copy of the application kit, please send a written request with a self-addressed mailing label to Mr. Jerry Morse, Director, Resource Management and Planning Staff, Trade Development/OPCRM, room 3223, HCHB, U.S. Department of Commerce, Washington, DC 20230. Application kits also may be picked up in room 3211, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230. Only one application kit will be provided to each organization requesting it, but the kit may be reproduced by the requester. All forms necessary to submit an application will be included in the application kit.

Completed applications should be sent to the Office of Planning, Coordination and Resource Management Trade Development, Room 3223, HCHB 14th & Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Applicants wanting further information on this pilot program should contact Mr. Jerry Morse, Director, Resource Management and Planning Staff, Trade Development, room 3211, HCHB, Washington, DC 20230, (202) 482–1180.

SUPPLEMENTARY INFORMATION:

Program Authority: The Omnibus Trade and Competitiveness Act of 1988, Public Law No. 100–418, title II, section 2303, 102 Stat. 1342, 15 U.S.C. 4723.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, Public Law No. 102–395, 106 Stat. 1828.

Program Objective: The objective of the Market Development Cooperator Program is to identify promising foreign market opportunities for U.S. exports and to introduce U.S. goods, processes and services to foreign buyers.

Funding Instrument and Project Duration: Since it is anticipated that ITA will be substantially involved in the implementation of each project for which an award is made, the funding instrument for this pilot program will be a cooperative agreement.

It is contemplated that a minimum of four (4) cooperative agreements will be concluded with eligible entities for this pilot program. Each cooperative agreement will not exceed a total of $500,000 regardless of the duration of the award. Funds may be expended over the period of time required to complete the scope of work, but not to exceed three years (3) from the date of the award.

The total amount of funds appropriated for this pilot program is $2.5 million.

Program Priorities: Applicants will be expected to supply two thirds (2/3) of total project costs, with the Federal portion to be one third (1/3). For applications targeting the Newly Independent States (NIS) that made up the former Soviet Union, the Department of Commerce recognizes that there may be extraordinary risk, difficulty and cost involved in developing these markets. Therefore, in unusual circumstances, the Department of Commerce will consider raising the Federal portion of funding for projects emphasizing the NIS up to 50 percent (50%) of proposed eligible project costs. The overall maximum of Department of Commerce funds of $500,000 per cooperative agreement still applies for NIS projects.

The Department of Commerce will support only the direct costs of each project. Each applicant will support a portion of the direct costs (to be specified in the application) and all of the indirect costs of its project. For purposes of this program, "direct costs" will be defined as personnel, fringe benefits, travel, equipment, supplies, contractual, and other (e.g., rent and furnishings for an overseas office).

A minimum of one half (½) of each applicant's support must be in the form of cash. Applicants' support of the non-Federal share may consist of cash or in-kind contributions (goods and services).

Market Development Cooperator Program funds should not be viewed as a replacement for funding from other sources, either public or private. An important goal of this program is to increase the sum of Federal and non-Federal market development activities. This goal can best be achieved by using program funds to encourage new initiatives. In addition to new initiatives, expansion of the scope of an existing project also may qualify for funding consideration. The Department of Commerce will fund such projects as if they are entirely new initiatives, not just the expansion portion of the project

Applicants may charge companies in the industry or other industry organizations reasonable fees to take part in or avail themselves of services provided as part of applicant's projects. Plans to charge fees should be described in detail in the applicant's application.

Eligibility: Trade associations and nonprofit industry organizations are eligible to apply for cooperative agreements under this pilot program.

Eligible entities may join together to submit an application as a joint venture and to share costs. For example, two trade associations representing different segments of a single industry or related industries can pool their resources and submit one application. Foreign businesses and private groups also may join with U.S. organizations to submit applications and to share the costs of proposed projects.

Applications will be accepted from eligible entities representing any industry, subsector of an industry or related industries. Some industries are represented by more than one eligible entity. Each applicant must permit all companies in the industry in question to participate, on equal terms, in all activities that are scheduled as part of a proposed project.

Applications may be targeted for any market in the world. While it is expected that proposed projects will entail an overseas presence, some activities may take place in the United States if it is necessary to the project's success.

Application Requirements: Competitive application kits will be available from the Department of Commerce starting December 1992. Standard Forms 424 (Rev. 4–88), 424A (Rev. 4–88), and 424B (Rev. 4–88), which are required as part of the application, are available from the contact person indicated above. Applicants must submit a signed original and two copies of the application and supporting materials. It is anticipated that it will take 4 weeks to process applications.

Closing Date: The closing date for applications for this pilot program is February 12, 1993.

Credentials/Documentation: Eligible entities desiring to participate in this pilot program must demonstrate the ability to provide a competent, experienced staff and other resources to assure adequate development, supervision and execution of the proposed project activities. Applicants also should describe in detail all assistance expected from the Department of Commerce or other Federal Government agencies to implement project activities successfully.

Each applicant must also provide a description of the membership of the eligible entity, the degree to which the entity represents the industry or industries in question, and the role, if any, foreign membership plays in the affairs of the eligible entity.

Applicants should summarize both the recent history of their industry or industries' competitiveness in the international marketplace and the export promotion history of the eligible entity or entities submitting the application.

Project Plans: Developing a project plan requires solid background research. Applicants should study, and applications should reflect such study of the following:

1. The market potential of the good or service to be promoted in a particular market(s),
2. The competition from host-country and third-country suppliers, and
3. The economic situation and prospects that bear upon the ability of a country to import the good or service.

Applicants also should present in their applications an assessment of industry resources that can be brought to bear for developing a market; the industry's ability to meet potential market demand expeditiously; and the industry's after-sales service capability in a particular foreign market(s).

After describing their complete basic research, applicants should develop marketing plans that set forth the overall objectives of the projects and the specific activities applicants will undertake as part of these projects. Applications should display the imagination and innovation of the private sector working in partnership with the Government to obtain the maximum market development impact.

Examples of Activities that Might Be Included in Applicant Applications: The following are examples of activities which might be included in an application. No one of these activities or any combination of these activities must be included for an application to receive favorable consideration. Applicants are encouraged to propose activities that would be most appropriate to the market development needs of their industry or industries:

(1) Opening an overseas office or offices to perform a variety of market development services for companies joining a consortium to avail themselves of such services [such an office should not duplicate the programs or services of the U.S. and Foreign Commercial Service (US&FCS) post(s) in the region];

(2) Detailing a private sector individual to a US&FCS post in accordance with 15 U.S.C. 4723(c);

(3) Entering into a contract with a bona fide market research company to conduct detailed, product-specific market research;

(4) Assigning industry specialists to work with Department of Commerce/U.S. Executive Director Procurement Liaison Offices at the Multilateral Development Banks to seek out and develop procurement opportunities;

(5) Underwriting the cost of overseas market research or participation in overseas trade exhibitions and trade missions, or covering the expenses of reverse trade missions and/or foreign buyer group travel to domestic trade shows;

(6) Overseas product demonstrations;

(7) Seminars in the United States or in the market(s) to be developed;

(8) Technical trade servicing which helps overseas buyers to choose the right U.S. good or service and to use the good for service efficiently;

(9) Joint promotions with foreign customers;

(10) Training of foreign nationals to perform after-sales service or to act as distributors;

(11) Working with organizations in the foreign marketplace responsible for setting standards and for product testing to improve market access; and

(12) Publishing an export resource guide or an export product directory for the industry or industries in question.

Evaluation Criteria: The Department of Commerce is interested in projects that demonstrate the possibility of both significant results during the project period and lasting benefits extending beyond the project period. To that end, consideration for financial assistance under the Market Development Cooperator Program will be based upon the following evaluation criteria:

(1) Anticipated increase in U.S. exports generated by the proposed expenditure of funds, including criteria for quantitative measurement and evaluation;

(2) Degree to which a project has a multiplier effect whereby industry and Government working in partnership can maximize outreach to companies capable of expanding into new markets or capable of increasing market share in present markets;

(3) Export potential of the good(s) or service(s) to be promoted;

(4) Probability of success in maintaining or increasing exports of the subject U.S. good(s) or service(s);

(5) Compatibility with U.S. trade and commercial policy;

(6) Willingness and ability of the applicant to back up promotional

activities with aggressive marketing and after-sales service;

(7) Intent and capability of the applicant to enlist the participation of small and medium size American companies in consortia and activities that are to be part of the proposed project;

(8) Size of the cash portion of the applicant's funding for the proposed project;

(9) Probability that the project can be continued on a self-sustained basis after the completion of the award;

(10) Creativity and innovation displayed by the work plan while at the same time being realistic;

(11) Institutional capacity of the applicant to carry out the work plan; and

(12) Reasonableness of the itemized budget for project activities.

Evaluation criteria 1–3 are of utmost importance in the selection process and will be worth 55 out of a possible 100 points as follows:

Criterion #1—maximum 25 points
Criterion #2—maximum 15 points
Criterion #3—maximum 15 points

Evaluation criteria 4–12 together will be worth a total of 45 points. Evaluation criteria 4–12 will be weighted equally.

Additional Requirements: All applicants are advised of the following:

1. Past Performance—Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

2. Preaward Activities—If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal assurance that they may have received, there is no obligation on the part of the Department of Commerce to cover pre-award costs.

3. No Obligation for Future Funding—If an application is selected for funding, the Department of Commerce has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce.

4. Delinquent Federal Debts—No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(A) The delinquent account is paid in full;

(B) A negotiated repayment schedule is established and at least one payment is received; or

(C) Other arrangements satisfactory to the Department of Commerce are made.

5. Intergovernmental Review—Executive Order 12372 "Intergovernmental Review of Federal Programs" does not apply to this program.

6. Name Check Review—All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity.

7. Primary Applicant Certifications—Primary applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug Free Workplace Requirements and Lobbying." In addition, applicants are advised that:

A. Nonprocurement Debarment and Suspension—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and Suspension" and the related section of the certification form.

B. Drug Free Workplace—Grantees (as defined at 15 CFR part 26, section 605) are subject to 15 CFR part 26, subpart F, "Government-wide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form.

C. Anti-Lobbying—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitations on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form which applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

D. Anti-Lobbying Disclosures—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, Appendix B.

8. Lower Tier Certifications—Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to the Department of Commerce. SF–LLL submitted by any tier recipient or subrecipient should be submitted to the Department of Commerce in accordance with the instructions contained in the award document.

9. *False Statements*—A false statement on the application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

10. *Federal Policies and Procedures*—Recipients and sub recipients are subject to all applicable Federal laws and Federal and Departmental policies, regulations, and procedures applicable to Federal financial assistance awards.

Classification: This notice does not constitute a major rule within the meaning of section 1(b) of Executive Order 12291 because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a Regulatory Impact Analysis was not required or prepared.

The requirements of section 553 of the Administrative Procedure Act (5 U.S.C. 553) including having to give notice and an opportunity for comment do not apply to this notice because the notice relates to grants, benefits or contracts. Since notice and an opportunity to comment are not required under any other statute, a Regulatory Flexibility Analysis is not required under the Regulatory Flexibility Act and was not prepared.

The Department of Commerce has determined that the Federal assistance covered by this notice not significantly affect the quality of the human environment. Therefore, no draft or final Environmental Impact Statement has been or will be prepared.

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

Dated: January 7, 1993.

Jerry Morse,

Director, Resource Management and Planning Staff, Trade Development.

[FR Doc. 93–726 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Threatened Marine Mammals; Steller Sea Lion; Buffer Area Exemption

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

ACTION: Notice of exemption determination.

SUMMARY: The Alaska Regional Office, NMFS, has received and granted a request from Dr. George L. Hunt, Jr., of the University of California, Irvine, for an exemption to allow passage into the 3-nautical-mile buffer zones around the Buldir Island, Kiska Island, Ayugadak Point, Ulak Island, and Semisopochnoi Island Steller sea lion rookeries. The request is to continue National Science Foundation-supported seabird research that cannot be accomplished without entering the buffer areas.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Dr Steven Zimmerman, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802 (907–586–7235).

SUPPLEMENTARY INFORMATION:

Background

On November 26, 1990, NMFS published a final rule (55 FR 49204) that listed the Steller (northern) sea lion as a threatened species under the Endangered Species Act (16 U.S.C. 1531–1543). That rule contained several protective regulations codified at 50 CFR 227 12(a), including the establishment of buffer zones around 35 sea lion rookeries in the Gulf of Alaska, Bering Sea and Aleutian Islands. These buffer zones prohibit the approach of any vessel within 3 nautical miles (nm) (5.5 km) of these rookeries or the approach of any person on land not privately owned within one-half statutory mile (0.8 km) or within sight of a listed rookery site, whichever is greater.

The final rule gave the Director, Alaska Region, NMFS (Regional Director), with the concurrence of the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), the authority to grant exemptions to the prohibitions of 50 CFR 227.12(a)(6). Exemptions allowing entry into buffer zones may be granted only if (1) the activity will not have a significant adverse impact on Steller sea lions; (2) the activity has been conducted historically and traditionally in the buffer zones; and (3) there is no readily available and acceptable alternative to, or site for, the activity.

In a letter dated October 28, 1992, Dr. George L. Hunt, Jr., submitted a request to the Regional Director for an exemption to allow passage into the buffer zones around the Buldir Island, Kiska Island, Ayugadak Point, Ulak Island, and Semisopochnoi Island Steller sea lion rookeries. The request is to continue National Science Foundation-supported seabird research that cannot be accomplished without entering the buffer areas. Information supplied by Dr. Hunt in his letter, and in discussions with NMFS staff, indicates that the request meets the conditions required for granting exemptions:

(1) Steller sea lions on these islands will not be disturbed by the research activity. The proposed research is to document the distribution and abundance of foraging auklets, using the R/V *Alpha Helix*. No rookery approaches from land are proposed. To ensure that Steller sea lions will not be disturbed, the research vessel will be required to remain at least 0.5 nm from the boundary of Steller sea lion rookeries at all times.

(2) The proposed research is a continuation of a long-term study, and thus, there is historical precedent for this action.

(3) There are no reasonable and feasible alternatives for the proposed activity. Auklet colonies are located on only a few of the Aleutian Islands, and these birds forage in a limited number of areas. The research cannot be relocated to an area where there are no sea lion rookeries. Also, researchers need to sample the same locations where past work was conducted to assess seasonal or annual changes in foraging patterns, and to achieve research goals.

For these reasons, the Regional Director recommended granting these exemptions and the Assistant Administrator concurs. In a letter of authorization to Dr. Hunt, the Regional Director stressed that authority is granted solely to obtain necessary observations related to this seabird research project. Research vessels must not approach within 0.5 nm of the sea lion rookeries, and are requested to stay as far away from the rookeries as possible. No disruption or disturbance of sea lions on the rookeries is authorized.

NMFS has determined that the proposed action is likely to cause only minimal disruption in normal sea lion behavior and is not likely to imperil the survival or impede the recovery of Steller sea lions. The maintenance of a 0.5-nm minimum approach within the buffer zones, in conjunction with other existing regulations, is expected to provide adequate protection for Steller sea lions.

Dated: January 7, 1993.

Nancy Foster,

Acting Deputy Assistant Administrator for Fisheries.

[FR Doc. 93–717 Filed 1–12–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Air Force USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board (SAB) Ad Hoc Committee on GPS Integrity and Denial will meet from 8 a.m. to 5 p.m. on 9–10 February 1993 at USSPACECOM and AFSCPACECOM, Colorado Springs, Colorado.

The purpose of this meeting is to receive information briefings on GPS capabilities, threats, potential vulnerabilities and program impacts. The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer

[FR Doc. 93–678 Filed 1–12–93; 8:45 am]

BILLING CODE 3910–01–M

Department of the Army

Armed Forces Epidemiological Board; Open Meeting

AGENCY: Armed Forces Epidemiological Board, DOD.

ACTION: Notice of open meeting.

1. In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–462) announcement is made of the following committee meeting:

NAME OF THE COMMITTEE: Armed Forces Epidemiological Board, DOD.

DATES OF THE MEETING: 25–26 February 1993.

TIME: 0800–1600.

PLACE: Ramada Renaissance, Washington/Dulles.

PROPOSED AGENDA: 25–26 February 1992—Service preventive medicine reports, HIV education, influenza vaccine for 1993–1994 influenza season.

2. This meeting will be open to the public but limited by space accommodations. Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the

committee. Interested persons wishing to participate should advise the Executive Secretary, AFEB, Skyline Six, 5109 Leesburg Pike, room 667, Falls Church, VA 22041–3258.

Gregory D. Showalter,

Alternate Army Federal Register Liaison Officer.

[FR Doc. 93–723 Filed 1–12–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Fund for the Improvement and Reform of Schools and Teaching; Board Meeting

AGENCY: Fund for the Improvement and Reform of Schools and Teaching Board, Education.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda of an open meeting of the Fund for the Improvement and Reform of Schools and Teaching Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES AND TIMES: January 28, 1993, 9 a.m.–5 p.m.; January 29, 1993, 9 a.m.–12 p.m.

ADDRESSES: Hyatt Regency Washington, 400 New Jersey Avenue, NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Paula Shipp, Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey Avenue, NW., room 522, Washington, DC 20208–5524, (202) 219–1496.

SUPPLEMENTARY INFORMATION: The Fund for the Improvement and Reform of Schools and Teaching (FIRST) Board was established under section 3231 of the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297). The Board was established to advise the Secretary concerning developments in education that merit his attention; identify promising initiatives to be supported under the authorizing legislation; and advise the Secretary and the Director of FIRST on the selection of projects under consideration for support, and on planning documents, guidelines and procedures for grant competitions carried out by FIRST.

The meeting of the FIRST Board will be open to the public. On January 28, 1993, the Board will introduce its new members and approve the minutes from the September meeting. The agenda will include an update on World Class Standards and related initiatives to develop curriculum frameworks and improved assessments. Time will be allotted for Q&A's.

The Board will also discuss, and the FIRST Family School Partnership—Pre-application process, and an update on the recently funded FIRST Projects. These discussions will continue on January 29, 1993. The meeting will conclude with a discussion of the upcoming agenda for and date of the next Board meeting.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement and Reform of Schools and Teaching, U.S. Department of Education, 555 New Jersey, NW., room 522, Washington, DC 20208–5524, from the hours of 8:30 a.m. to 5 p.m.

Dianne Ravitch,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–722 Filed 1–12–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ES93–17–000, et al.]

Electric Rate, Small Power Production, and Interlocking Directorate Filings; Glen Park Associates Limited Partnership, et al.

Take notice that the following filings have been made with the Commission:

1. Glen Park Associates Limited Partnership

[Docket No. ES93–17–000]

January 4, 1993.

Take notice that on December 30, 1992, Glen Park Associates Limited Partnership (Glen Park) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization for blanket prior approval to issue securities and to assume obligations with respect to securities. Glen Park's filing relies upon the Commission's action in Alternative Energy, Inc., Docket No. ES91–30–000, 56 FERC ¶ 61,270 (1991).

Glen Park is a New York limited partnership and owns and operates the 32.4 MW Glen Park Hydroelectric Project (FERC No. 4796) located on the Black River in Jefferson County, New York. The output of the project is sold to Niagara Mohawk Power Corporation pursuant to long term power sale contract which has previously been accepted for filing by this Commission.

Comment date: January 29, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc.

[Docket No. ES93–305–000]

January 5, 1993.

Take notice that on December 30, 1992, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94 for transmission service for the Long Island Lighting Company (LILCO). The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station. The Supplement provides for a decrease in annual revenues under the Rate Schedule by a total of $106,215. Con Edison has requested waiver of notice requirements so that the Supplement can be made effective as of July 1, 1992.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Consolidated Edison Company of New York, Inc.

[Docket No. ER93–290–000]

January 5, 1993.

Take notice that on December 21, 1992, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing a Supplement to its Rate Schedule FERC No. 105, an agreement to provide transmission service for Orange and Rockland Utilities, Inc. (O&R). The Supplement provides for a decrease in the monthly transmission charge from $0.83 to $0.79 per kilowatt thus decreasing annual revenues under the Rate Schedule by a total of $60,000.00. Con Edison has requested waiver of notice requirements so that the decrease can be made effective as of July 1, 1992.

Con Edison states that a copy of this filing has been served by mail upon O&R.

Comment date: January 20, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Enter Power, Inc.

[Docket No. ER93–291–000]

January 5, 1993.

Take notice that Entergy Power, Inc. (Entergy Power), on December 22, 1992

tendered for filing two Notices of Cancellation for two short term sales of capacity and associated energy to the Tennessee Valley Authority.

Entergy Power requests an effective date of August 3, 1992 for the Notice of Cancellation for Entergy Power Rate Schedule FERC No. 6 (including Supplement No. 1). Entergy Power requests an effective date of September 1, 1992 for the Notice of Cancellation for Entergy Power Rate Schedule FERC No. 7 (including Supplement No. 1). Entergy Power requests waiver of the Commission's notice requirements under § 35.15 of the Commission's Regulations.

Comment date: January 20, 1993, in accordance with Standard Paragraph E at the end of this notice.

5. Boston Edison Company

[Docket No. ER86–645–006]

January 5, 1993.

Take notice that on December 4, 1992, Boston Edison Company of Boston, Massachusetts submitted for filing additional information to supplement its June 15, 1992 filing to comply with Opinion Nos. 350 and 350–A issued on July 9, 1990 and April 14, 1992, respectively (52 FERC ¶ 61,010; 59 FERC ¶ 61,062). This submittal was made in response to a November 4, 1992 letter order of the Commission.

Boston Edison states that it has served copies of the submittal on all persons listed on the official service list in the proceeding.

Comment date: January 20, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Baltimore Gas and Electric Co.

[Docket No. ER93–93–000]

January 6, 1993.

Take notice that on December 30, 1992, Baltimore Gas and Electric Company (BG&E) tendered for filing an Amendment to its October 30, 1992 filing of the System Energy Sales Agreement between Baltimore Gas and Electric Company (BG&E) and the Long Island Lighting Company (LILCO) in the above captioned docket. The Amendment consists of changes to section 6a of the Agreement.

BG&E has requested waiver of the Commission's notice requirements to allow an effective date of November 2, 1992 as originally requested.

Copies of the filing were served on the Maryland and New York Public Service Commission.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Milford Power Limited Partnership

[Docket No. ER93–304–000]

January 6, 1993.

Take notice that Milford Power Limited Partnership (Milford), on December 30, 1992, tendered for filing proposed changes in its Rate Schedule FERC No. 1.

The proposed change to Milford's rate formulae was required to accommodate a change in the gas supply arrangements for the Milford Project. The prposed change in Milford's rate of formulae is expected to have a *de minimis* effect on Milford's revenues.

A copy of the filing was served upon New England Power Company.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Power Co.

[Docket Nos. ER82–553–006; ER82–554–006]

January 6, 1993.

Take notice that on December 29, 1992, Ohio Power Company (OPCo) tendered for filing a proposed plan for repayment of amounts owed to OPCo by its Municipal Resale Electric Service customers and Wheeling Power Company pursuant to the Commission's Order issued in Docket No. ER82–553–004 and ER82–554–004.

Copies of the filing were served upon Wheeling Power Company, the Public Service Commission of West Virginia, the affected municipal customers, the Public Utilities Commission of Ohio and other parties of record.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

[Docket No. ER93–135–000]

January 6, 1993.

Take notice that on December 30, 1992, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (jointly NSP Companies) tendered for filing a certain Transmission Services Agreement entered into by the NSP Companies pursuant to the Settlement Tariff portion of the NSP Companies FERC Electric Tariff, Original Volume No. 1. This administrative filing was required under the Federal Energy Regulatory Commission's Policy Statement issued October 9, 1992, regarding filing of service agreements under tariffs of general applicability.

The NSP Companies request acceptance for filing of a standard form Transmission Services Agreement with the Wisconsin Public Power, Inc. SYSTEM (WPPI) effective November 1, 1991. The proposed Agreement supersedes the executed agreement with WPPI executed under NSP's original October 1990 Tariff, and replaces the unexecuted draft Settlement Tariff agreement contained in NSP's initial filing. The amendment also provides certain corrections and additional information supplementing the initial filing.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. Minnesota Power & Light Co.

[Docket No. ER93–289–000]

January 6, 1993.

Take notice that on December 21, 1992, Minnesota Power & Light Company (MP&L) tendered for filing an Amendment, dated November 24, 1992, to the Electric Service Agreement between MP&L and Dahlberg Light and Power Company. The Amendment provides, among other things, for a ten year extension of the Agreement, through December 31, 2004.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

11. Central Vermont Public Service Corp.

[Docket No. ER93–302–000]

January 6, 1993.

Take notice that on December 29, 1992, Central Vermont Public Service Corporation (Central Vermont or the Company) tendered for filing with the Federal Energy Regulatory Commission (the Commission) notification that the Company would continue to provide service pursuant to an Option Power Sales Agreement and Amended Distribution Service Agreement (the Agreement) between Central Vermont and the State of Vermont Department of Public Service which was filed and approved previously in Docket No. ER90–151–000. Central Vermont states that the Agreement expired in accordance with its terms on October 31, 1993, and requests waiver of the Commission's regulations in order to permit the notification of the customer's desire to continue to receive service thereafter in accordance with the rates, terms and conditions of the Agreement to be effective as of that date, and the Company's willingness to provide such service.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. Philadelphia Electric Co.

[Docket No. ER93–301–000]

January 6, 1993.

Take notice that on December 29, 1992, Philadelphia Electric Company (PE) tendered for filing under section 205 of the Federal Power Act and part 35 of the regulations issued thereunder, an Agreement between PE and Long Island Lighting Company (LILCO) dated December 22, 1992.

PE states that the Agreement sets forth the terms and conditions for the sale of system energy which it expects to have available for sale from time to time and the purchase of which will be economically advantageous to LILCO. In order to optimize the economic advantage to both PE and LILCO, PE requests that the Commission waive its customary notice period and permit the agreement to become effective on January 1, 1993.

PE states that a copy of this filing has been sent to LILCO and will be furnished to the Pennsylvania Public Utility Commission and the New York Public Service Commission.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. Pacific Gas and Electric Co.

[Docket No. ER93–154–000]

January 6, 1993.

Take notice that on December 31, 1992, Pacific Gas and Electric Company (PG&E) tendered for filing a request for deferment. On December 22, 1992, FERC staff requested additional information for the 31 Agreements previously filed in this docket with FERC on November 17, 1992 in response to the Commission's "Supplemental Order Rescinding Refund Obligation and Announcing Additional 30-Day Amnesty Period for the Filling of Jurisdictional Agreements Involving Contributions in Aid of Construction". In order to allow sufficient time for PG&E to gather this information, PG&E is requesting a deferment of (1) the lesser of 90 days from December 22, 1992 or (2) the end of any new amnesty period that may result from the technical conference scheduled for January 28, 1993 in Docket No. PL93–2–000.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

14. PacifiCorp

[Docket No. ER93–25–000]

January 6, 1993.

Take notice that PacifiCorp on December 30, 1992, tendered for filing in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, an amended filing to this docket.

Copies of this filing were supplied to Bonneville and the Public Utility Commission of Oregon.

Comment date: January 21, 1993, in accordance with Standard Paragraph E at the end of this notice.

15. Midwest Power Systems Inc.

[Docket No. ER93–10–003]

January 6, 1993.

Take notice that on October 28, 1992, Midwest Power Systems Inc. (Midwest) filed an application with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization to issue not more than $750 million principal amount of General Mortgage Bonds and/or Medium-Term Notes and the guarantee of the issuance and sale of Pollution Control Revenue Bonds. Also, Midwest requested exemption from the Commission's competitive bidding regulations. The filing was noticed on November 3, 1992, with no comments or protests being filed. By letter orders dated December 2, 1992 and December 11, 1992, the Chief Accountant authorized the requests.

On January 5, 1993, Midwest filed an amendment with the Federal Energy Regulatory Commission under section 204 of the Federal Power Act requesting authorization for exemption from compliance with the negotiated placement requirements at 18 CFR 34.2(b)(2)(i)(B) of the Commission's regulations under the Federal Power Act.

Comment date: January 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–700 Filed 1–12–93; 8:45 am]

BILLING CODE 6716–01–M

[Docket Nos. ER93–116–000, et al.]

Puget Sound Power & Light Co.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

December 31, 1992.

Take notice that the following filings have been made with the Commission:

1. Puget Sound Power & Light Co.

[Docket No. ER93–116–000]

Take notice that on December 24, 1992, Puget Sound Power & Light Company tendered for filing additional information concerning its earlier filing in this docket.

Comment date: January 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Arroyo Energy, Limited Partnership

[Docket No. QF92–179–000]

On December 28, 1992, Arroyo Energy, Limited Partnership (Applicant), tendered for filing an amendment to its filing in this docket.

The amendment provides additional information pertaining to the ownership structure of its proposed cogeneration facility. No determination has been made that the submittal constitutes a complete filing.

Comment date: January 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Puget Sound Power & Light Co.

[Docket No. ER93–119–000]

Take notice that on December 18, 1992, Puget Sound Power & Light Company tendered for filing additional information concerning its earlier filing in this docket of an agreement with Pacific Gas and Electric Company for seasonal exchange of capacity and associated energy.

Comment date: January 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Puget Sound Power & Light Co.

[Docket No. ER93–117–000]

Take notice that on December 24, 1992, Puget Sound Power & Light Company tendered for filing additional information concerning its earlier filing in this docket.

Comment date: January 14, 1993, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–701 Filed 1–12–93; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Filed with the Commission

January 7, 1993

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection.

a. Type of Application: Request for Extension of Time to Commence Project Construction.

b. Project No.: 6641–025.

c. Date Filed: December 16, 1992.

d. Applicants: The City of Marion, Kentucky and Smithland Hydroelectric Partners.

e. Name of Project: Smithland Lock and Dam Hydro Project.

f. Location: In Livingston County, Kentucky, on the Ohio River.

g. Filed Pursuant to: Section 1701(c)(3) of the Energy Policy Act of 1992, Public Law No. 102–486.

h. Applicant Contacts: J. Pierce, Smithland Hydro Partners, 120 Calumet Court, Aiken, SC 29801, (803) 648–0276. Louis Rosenman, Attorney, c/o City of Marion, Kentucky and Smithland Hydroelectric Partners 1725 DeSales Street, NW., Suite 800, Washington, DC 20036, (202) 659–6568.

i. FERC Contact: Mr. Lynn R. Miles, (202) 219–2671.

j. Comment Date: February 5, 1993.

k. Description of the Request: Pursuant to Section 1701(c)(3) of the Energy Policy Act of 1992, Public Law No. 102–486, the licensee requests that the deadlines for the acquisition of real property and the commencement of construction on FERC Project No. 6641 be extended to June 29, 1996, and the deadline for the completion of construction be extended to June 29, 2000. The licensee states that it has diligently pursued the development of the project and has invested over $1,000,000 in this effort. The licensee further contends that the U.S. Army Corps of Engineers proposed construction and operation of a prototype Wicket Gate Test Facility at the project site conflicts with the construction of Project No. 6641, due to identical sites and overlapping construction schedules.

1. This notice also consists of the following standard paragraphs: B, C, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATIONS," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the project number of the particular application to which the filing is in response. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: The Director, Office of Hydropower Licensing, Division of Project Compliance and Administration, Federal Energy Regulatory Commission, ATTN: HL–21, room 1148 UCP, at the above address. A notice of intent, competing application, or motion to intervene must also be served upon each representative of the applicant specified in the particular application.

D2. Agency Comments—The Commission invites federal, state, and local agencies to file comments on the described application. (Agencies may obtain a copy of the application directly from the applicant). If an agency does not file comments within the time specified for filing comments, the Commission will presume that the agency has none. One copy of an agency's comments must also be sent to the applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 92–702 Filed 1–12–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP93–129–000, et al.]

Texas Eastern Transmission Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Eastern Transmission Corp.

[Docket No. CP93–129–000]

January 4, 1993.

Take notice that on December 23, 1992, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP93–129–000 a request pursuant to § 157.205 of the Commission's Regulations to add an existing delivery point to an existing service agreement with Libra Marketing Company (Libra) at an interconnection with Libra in San Patricio County, Texas under Texas Eastern's blanket certificate issued in Docket No. CP82–535–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern proposes to add existing 6-inch tap connection on its 6-inch No. 16–L in San Patricio County, Texas. Texas Eastern would add the existing delivery point to the amended service agreement dated August 31, 1992, for service to Libra under Texas Eastern's Rate Schedule IT–1. Texas Eastern states that the peak and average day deliveries at the delivery point would be 100,000 dth of natural gas. Texas Eastern states that the addition of the existing facilities would have no effect on its peak day or annual deliveries and would be accomplished without detriment or disadvantage to its other customers. Texas Eastern states that Libra would reimburse Texas Eastern for the cost of the facilities which is estimated to be $78,000. Libra would install approximately 24,000 feet of 8-inch pipeline and two single 6-inch meter runs with regulators connecting to Texas Eastern's Line No. 16–L, it is indicated.

Comment date: February 16, 1993, in accordance with Standard Paragraph G at the end of this notice.

2. Southern Natural Gas Co.

[Docket No. CP93–000]

January 4, 1993.

Take notice that on December 23, 1992, Southern Natural Gas Company (Southern), filed in Docket No. CP93–134–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sales service provided to Florida Gas Transmission Company (Florida), effective April 30, 1992, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern is requesting authorization to abandon firm sales service provided to Florida under Rate Schedule OCDL–1, because Florida has already abandoned its purchase from Southern on April 30, 1992, pursuant to Order No. 490. As a result, Southern is requesting the retroactive effective date to coincide with the effective date of Florida's abandonment.

Southern states in its application that it has not sold gas to Florida since the April 30 date, the contract between the two parties has expired, and that no facilities are proposed to be abandoned with the request herein.

Comment date: January 25, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. Colorado Interstate Gas Co.

[Docket No. CP93–120–000]

January 4, 1993

Take notice that on December 18, Colorado Interstate Gas Company (CIG) Post Office Box 1087, Colorado Springs, Colorado 80944, filed pursuant to section 7(c) of the Natural Gas Act (NGA), an application in Docket No. CP93–120–000 for a certificate of public convenience and necessity to construct and operate facilities necessary to increase the injection capability into the Fort Morgan Storage Field, all as more fully set forth in the application on file with the Commission and open to public inspection.

CNG indicates that the proposed new facilities are part of its restructuring proposal under Order Nos. 636 et seq. which was filed by CIG on October 1, 1992 in Docket No. RS92–4–000. CIG requests authority to: (1) Install approximately 5,800 feet of 8-inch and 6-inch pipeline and appurtenant facilities to connect six existing injection/withdrawal wells—FMU#17, FMU#19, FMU#20, FMU#21, FMU#23 and FMU#24—to the Fort Morgan high-pressure gathering system; and (2) install approximately 2,200 additional horsepower consisting of two 1,100 horsepower compressor units, and approximately 1,000 feet of 12-inch yard piping and appurtenant facilities to be housed in a separate building, located approximately 200 feet east of the existing Fort Morgan compressor building within the existing yard.

CIG indicates that these facilities are required to increase the injection capability into the Fort Morgan Storage Field from approximately 60 MMcf per day to approximately 100 MMcf per day with actual injection capability dependent on system operating conditions. CIG states that it is not requesting authority to increase the peak day or seasonal deliverability.

CIG states that the estimated cost of the proposed facilities as set forth in Exhibit K is $3,612,500 and the cost of service associated with the proposed facilities as included in Exhibit N. The cost of the proposed facilities will be financed from funds on hand and internally generated cash from operations.

Comment date: January 25, 1993, in accordance with Standard Paragraph F at the end of the notice.

4. Columbia Gas Transmission Corp.

[Docket No. CP93–89–000]

January 4, 1993

Take notice that on December 3, 1992, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP93–89–000, as supplemented on December 14, 1992, a request pursuant to § 157.205 of the Commission's Regulations to construct and operate three points of delivery for interruptible and firm transportation service to Equitable Gas Company (Equitable) Butler, Allegheny and Beaver Counties, Pennsylvania under Columbia's blanket certificate issued in Docket No. CP83–76–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia proposes to construct and operate (1) an 8-inch tap, 2 filter separators, 12'×16' building and an 8-inch turbine meter for the delivery of up to 10,000 dth per day of natural gas and 3,650,000 dth per year of natural gas, on an interruptible basis, to Equitable to serve Witco Chemical, an industrial customer in Butler County, Pennsylvania at an estimated cost of $406,000 which would be reimbursed by Equitable; (2) a 6-inch tap, 2 filter separators, 12'×16' building and an 8-inch turbine meter for the delivery of up to 10,000 dth per day of natural gas and 3,650,000 dth per year of natural gas, on a firm basis, to Equitable to serve Airport Corridor, a commercial customer in Allegheny County, Pennsylvania at an estimated cost of $375,000 which would be reimbursed by Equitable and; (3) a 4-inch tap, 2 filter separators, 12' x 16' building and a 4-inch turbine meter for the delivery of up to 3,000 dth per day of natural gas and 1,095,000 dth per year of natural gas, on a firm basis, to Equitable to serve McAllister Crossroad, a commercial/industrial customer in Beaver County, Pennsylvania at an estimated cost of $266,000 which would be reimbursed by Equitable. Columbia states that the three additional delivery points have been requested by Equitable for commercial and industrial service under Rate Schedule X–70 to be provided pursuant to Article IV of the Stipulation and Agreement In Settlement entered into by Kentucky West Virginia Gas Company and Columbia filed August 5, 1992, in Docket Nos. TQ89–1–46–000, *et al.*

Comment date: February 16, 1993, in accordance with Standard Paragraph F at the end of the notice.

5. Colorado Interstate Gas Co.

[Docket No. CP93–136–000]

January 4, 1993.

Take noticd that on December 28, 1992, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket CP93–136–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas to Questar Pipeline Company (Questar), a firm sales customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG proposes to abandon the sale of 1,500 Mcf of natural gas per day to Questar and 547,000 Mcf on an annual basis, carried out under the terms of CIG's Rate Schedule P–1. CIG requests abandonment authorization in response to a request from Questar in a letter dated November 13, 1992. It is stated that CIG requests an effective date for the abandonment of October 1, 1992, to be concurrent with the termination of the service agreement between CIG and Questar. it is asserted that no other customers of CIG would be affected by the proposed abandonment.

No facilities are proposed to be abandoned.

Comment date: January 25, 1993, in accordance with Standard Paragraph F at the end of this notice.

6. Penn-York Energy Corp.

[Docket No. CP76–492–051]

January 4, 1993.

Take notice that on December 22, 1992, Penn-York Energy Corporation (Applicant), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP76–492–051 pursuant to section 7(c) of the Natural Gas Act this Petition to Amend the "Order Approving Settlement Offer with modifications and Issuing Certificate" issued February 4, 1981.[1] Applicant herein requests authority to modify the authorized capacity of its three storage fields by 2.7 Bcf, all as more fully set forth on the request, on file with the Commission and open to public inspection.

Applicant seeks authority to increase the authorized base capacity of its three storage fields by an additional 2.7 Bcf. Specifically, Applicant seeks authority to increase the base gas capacity of its Beech Hill storage field by 2.2 Bcf to 13.1 Bcf.[2] Applicant also seeks authority to increase the base gas capacity of the East Independent Field by 300,000 Mcf and the West Independent Field by 200,000 Mcf.

In 1990, Applicant indicates that the pressure in its storage fields was continuing to decline. During the withdrawal cycle in 1990–91, Applicant's withdrawal from its storage fields was 11.14 Bcf. After injecting 5.7 Bcf of additional gas, Applicant states that the volume withdrawn increased to 12.23 Bcf during the 1991–92 withdrawal cycle. Based upon the improvement in withdrawal quantities, Applicant states that the reservoir is expanding. Thus, the Applicant indicates that the additional base gas is necessary to improve the deteriorating performance of Applicant's storage fields.

Applicant states that the additional 2.7 Bcf of base gas that was provided to Applicant by its customers through the operation of the storage loss allocation provision in Section 2.4 of the SS–1 and SS–2 Rate Schedule ("FLA") has already injected. Applicant also states that it does not request any change in rates or terms of service to Applicant's customers in this application. Applicant reiterates that it only seeks authority for the increase in base gas capacity by 2.7 Bcf.

[1] *Penn-York Energy Corporation*, 38 FERC ¶61,135 (1987).

[2] Inclusive of Applicant's Petition to Amend its Certificate of Public Convenience and Necessity to increase by 3 Bcf the base gas capacity of the Beech Hill Field proposed at Docket No. CP76–492–050.

Comment date: January 25, 1993, in accordance with the first Standard Paragraph F at the end of this notice.

7. Williston Basin Interstate Pipeline Co.

[Docket No. CP93–123–000]

January 6, 1993.

Take notice that on December 21, 1992, Williston Basin Interstate Pipeline Company, (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed an application pursuant to section 7(b) of the Natural Gas Act for an order permitting the abandonment of certain transmission and gathering facilities located in Wyoming as well as the abandonment of certain jurisdictional services all as a result of the sale of property, as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin will sell the facilities to K N Energy, Inc., Wind River Gathering Company, K N Gas Gathering, Inc., and Northern Gas Company. Williston Basin describes sales prices and accounting treatment in the application. The application affects services to the town of Pavillion, Wyoming and 13 farm customers in Fremont County, Wyoming.

Comment date: January 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

8. Williston Basin Interstate Pipeline Co.

[Docket No. CP93–121–000]

January 6, 1993.

Take notice that on December 21, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP93–121–000, an application for a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act for authorization to uprate 59.8 miles of existing 12-inch natural gas transmission pipeline from its Worland Compression Station in Washakie County, Wyoming to the Madden/Wind River Junction in Fremont County, Wyoming by increasing its maximum allowable operating pressure (MAOP) from 850 psig to 1,017 psig and to modify the discharge piping and install an additional gas cooler at the Worland Compressor Station. Williston Basin states that it will also relocate the first stage regulators presently located at the Worland and Thermopolis town border stations to their respective lateral line interconnections with the uprated main transmission line. The estimated cost of the project is approximately $577,638. Uprating is required, according to Williston Basin, because of a proposed sale of facilities in the Wind River Basin area of Wyoming to K N Energy, Inc. proposed in the abandonment application of Williston Basin in Docket No. CP93–123–000.

Comment date: January 27, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. U–T Offshore System

[Docket No. CP93–113–000]

January 6, 1993.

Take notice that on December 16, 1992, U–T Offshore System, (U–TOS) P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP93–113–000 an application pursuant to section (7)(b) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), for an order permitting and approving abandonment of firm and associated interruptible overrun transportation services provided to Transcontinental Gas Pipe Line Corporation (Transco) under U–TOS' Rate Schedules T–2 and I, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Service for Transco was certified in Docket No. CP76–118 by order issued January 13, 1977. Texas Gas Transmission Corporation, et al. 57 FPC 199 (1977). Transco's currently effective contract demand under the T–2 Rate Schedule is 199,608 Mcf per day, and its overrun quantity under Rate Schedule I is 413,000 Mcf per day.

U–TOS states that it was notified by Transco by letter dated June 5, 1992 of Transco's intent to terminate the service agreement underlying the T–2 Rate Schedule at the end of the primary term thereof, *i.e.*, on June 10, 1993. Accordingly, U–TOS requests an order permitting and approving abandonment of Rate Schedule T–2 and related Rate Schedule I (interruptible overrun) service effective on June 10, 1993.

U–TOS states that it does not propose to abandon any facilities in the instant application. U–TOS states that no service to any of its customers will be affected by the abandonmnt authorization requested herein.

Comment date: January 20, 1992, in accordance with Standard Paragraph F at the end of this notice.

10. High Island Offshore System

[Docket No. CP93–118–000

January 6, 1993.

Take notice that on December 18, 1992, High Island Offshore System

(HIOS), 500 Renaissance Center, Detroit, Michigan 48243, filed an application pursuant to section (7)(b) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission (Commission), for authorization to abandon transportation service (currently being rendered for Trunkline Gas Company (Trunkline).

In its application, HIOS proposes to terminate its firm transportation service which HIOS is rendering in accordance with HIOS' Rate Schedule T–12, as well as associated Interruptible Overrun Transportation Service volumes rendered in accordance with HIOS' Rate Schedule I, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

HIOS proposes to terminate these services at the end of the primary term of Rate Schedule T–12, i.e., effective June 14, 1993, in accordance with the terms of such rate schedule and in accordance with timely notice given by Trunkline to HIOS.

HIOS states that it does not propose to abandon any facilities in the instant application. HIOS states that no service to any of its other customers will be affected by the abandonment authorization requested herein.

Comment date: January 20, 1993, in accordance with Standard Paragraph F at the end of the notice.

11. K N Energy, Inc.

[Docket No. CP93–125–000]

January 6, 1993.

Take notice that on December 21, 1992, K N Energy, Inc. (KN), P.O. Box 281304, Lakewood, Colorado 80228, filed an application pursuant to section 7(c) of the Natural Gas Act, as amended, and part 157 of the Commission's Regulations thereunder for a certificate of public convenience and necessity authorizing the acquisition from Williston Basin Interstate Pipeline Company (WBI) and the ownership and operation of certain pipeline and appurtenant facilities comprising Williston Basin's Madden Lateral in Fremont County, Wyoming. The facilities to be acquired consist of approximately 10.3 miles of 8-inch transmission pipeline, gathering facilities, a field dehydration unit, and appurtenant facilities, in Fremont County, Wyoming; all as more fully described in the application on file with the Commission. K N will pay WBI the net book value of $400,535.07 for the facilities.

Comment date: January 27, 1993, in accordance with Standard Paragraph F at the end of this notice.

12. K N Energy, Inc.

[Docket No. CP93–137–000]

January 6, 1993.

Take notice that on December 30, 1992, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado, 80228, filed in Docket No. CP93–137–000 a request pursuant to § 157.205(b) 157.208 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b), 157.208 and 157.212) seeking certificate authority, under its blanket certificate issued in Docket Nos. CP83–140–000 and CP83–140–001 to jointly with Williston Basin Interstate Pipeline Company, install and own a new measuring station at the Northwest end of the Madden Lateral and to add such measuring station as a redelivery point under its Rate Schedule X–4, all as more fully set forth in the request on file with the Commission and open to public inspection. The facility will cost $300,000.

Comment date: February 16, 1993, in accordance with Standard Paragraph G at the end of this notice.

13. Williston Basin Interstate Pipeline Company

[Docket No. CP93–122–000]

January 6, 1993.

Take notice that on December 21, 1992, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed a request pursuant to §§ 157.205, 157.211 and 157.212 of the Commission's Regulations, for authorization to construct a new metering station and appurtenant facilities and to add such new metering station to the interruptible transportation service rendered to K N Energy, Inc. (K N) under Rate Schedule X–3 pursuant to the prior notice procedure under Williston Basin's blanket certificate issued in Docket Nos. CP82–487–000, *et al.* and CP83–1–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In conjunction with an application filed the same date to abandon certain facilities by sale, Williston Basin seeks authorization to construct and operate a new metering station and a receipt/delivery point to the interruptible transportation service provided to K N under Rate Schedule X–3. The proposed metering station receipt/delivery point will be located in the vicinity of the existing interconnection of the 8-inch Madden (Lost Cabin) pipeline to the 12-inch Riverton-Worland line on existing pipeline right-of-way.

Williston Basin states that the facilities to be constructed will consist of two 8-inch bi-directional flow orifice-type gas custody transfer meters, miscellaneous regulators, gauges and valves, a fence, one meter building, and one building containing instruments and SCADA telemetering equipment. The total cost of the proposed facilities is estimated to be $300,000. The cost of the proposed facilities is to be shared by Williston Basin, Wind River Gathering Company and K N. Williston Basin further states that the installation of the proposed facilities should have no significant effect on its peak day or annual requirements.

Comment date: February 16, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a

protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–703 Filed 1–12–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–124–000]

ANR Pipeline Co.; Request Under Blanket Authorization

December 31, 1992.

Take notice that on December 21, 1992, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP93–124–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations for authorization to operate under the provisions of the Natural Gas Act (NGA) certain facilities that have been constructed pursuant to section 311 of the Natural Gas Policy Act of 1978, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes an extension of the temporary exemption granted by the Commission to permit ANR to continue to use the uncertificated section 311 facilities which are the subject of this application to provide converted transportation services pending certification of the facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–704 Filed 1–12–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearing and Appeals

Cases Filed During the Week of December 18 through December 25, 1992

During the Week of December 18 through December 25, 1992, other relief listed in the appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: January 6, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

REFUND APPLICATIONS RECEIVED

[Week of December 18 to December 25, 1992]

Date received	Name of refund proceeding/name of refund application	Case No.
12/18/92 thru 12/25/92.	Texaco Oil Refund applications received.	RF321–19529 thru RF321–19538.
12/18/92 thru 12/25/92.	Gulf Oil Refund applications received.	RF300–20778 thru RF300–20803.
12/18/92 thru 12/25/92.	Atlantic Richfield applications received.	RF304–13463 thru RF304–13483.
12/18/92 thru 12/25/92.	Crude Oil Refund applications received.	RF272–94012 thru RF272–94021.
12/21/92	Armstrong and Troutwine, Inc.	RF309–1426.
12/21/92	The City of Los Angeles, CA.	RF347–3.
12/23/92	Lawtell Highway Canal.	RF346–16.
12/23/92	St. Martinville Canal	RF346–17.

[FR Doc. 93–766 Filed 1–12–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–4554–4]

Hazardous Air Pollutants List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Denial.

SUMMARY: Under section 112(b)(3)(A) of the Clean Air Act (CAA) as amended in 1990, any person may petition the Administrator to modify the initial list of hazardous air pollutants (HAPs) in CAA section 112(b)(1) by adding or deleting a particular chemical substance, or by removing specific substances from listed categories other than coke oven emissions, mineral fibers, or polycyclic organic matter. In this notice, the U.S. Environmental Protection Agency (EPA) announces that it is denying a petition to remove five specific substances [diethylene glycol monobutyl ether (112–34–5), diethylene glycol monobutyl ether acetate (124–17–4), triethylene glycol monomethyl ether (112–35–6), triethylene glycol monoethyl ether (112–50–5), and triethylene glycol monobutyl ether (143–22–6)] from the category of glycol ethers as listed in CAA section 112(b)(1).

FOR FURTHER INFORMATION CONTACT: Dr. Nancy B. Pate, Petition Coordinator, Emission Standards Division (MD–13), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; (919) 541–5347.

SUPPLEMENTARY INFORMATION: On October 16, 1991, EPA received a petition from the Chemical Manufacturers Association (CMA) to remove diethylene glycol monobutyl ether (112–34–5), diethylene glycol monobutyl ether acetate (124–17–4), triethylene glycol monomethyl ether (112–35–6), triethylene glycol monoethyl ether (112–50–5), and triethylene glycol monobutyl ether (143–22–6) from the category of glycol ethers listed as a Hazardous Air Pollutant (HAP) in section 112(b)(1). The EPA is denying the petition because the petitioner did not provide sufficient data or analysis to enable the EPA to determine whether emissions of these substances could be reasonably anticipated to cause adverse effects to human health or the environment. In particular, the petition contained insufficient information concerning the actual or estimated exposures which would result from emissions from manufacture and use of these specific

substances. Although public information indicated that over 140 million pounds of these substances are used annually in the U.S. and that there is a general trend towards greater usage, the petitioner did not provide measurements or estimates regarding the emissions associated with such use. In the absence of such information, EPA cannot make the substantive determination contemplated by CAA Section 112(b)(3).

After determining that the CMA petition was insufficient, EPA afforded CMA an opportunity to withdraw its petition, develop further emission and exposure information, and resubmit the petition at a later time. The CMA decided not to withdraw the petition. After additional discussion, CMA agreed that any supplementary information would be submitted only in the context of a new petition. EPA then met with CMA representatives to discuss the substantive deficiencies that needed to be remedied prior to submission of a new petition.

As a general matter, when EPA determines that a petition submitted under CAA section 112(b)(3) is deficient or imcomplete, EPA intends to return the petition to the petitioner, along with a brief description of the deficiency or missing information. Rather than formally denying a petition in such circumstances, EPA will afford the petitioner an opportunity to remedy the deficiency or supply the missing information prior to formal action on the petition. However, under CAA section 112(b)(4), if a petition to delete or remove a substance was filed prior to November 15, 1991, EPA must grant or deny the petition prior to promulgating emission standards for affected source categories. In view of the decision by CMA not to withdraw its incomplete petition, EPA has decided that it must formally deny that petition rather than return it to CMA, in order to assure that EPA is not prevented in the future from issuing any emission standard applicable to sources emitting the five glycol ethers.

This denial notice constitutes final action under CAA section 112(b)(3)(A). This denial action disposes only of the CMA petition submitted on October 16, 1991, and CMA may submit without prejudice a new petition to remove the specified five glycol ethers from the HAP list. This denial action is based on a determination of nationwide scope and effect and is therefore reviewable only in the United States Court of Appeals for the District of Columbia, as provided by CAA section 307(b)(1). This action is not a rule and does not modify the list of hazardous air pollutants in CAA section 112(b)(1). It is not subject to the provisions of Executive Order 12291 or the Regulatory Flexibility Act.

Dated: January 7, 1993.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–758 Filed 1–12–93; 8:45 am]

BILLING CODE 6560–50–M

[AMS–FRL–4554–6]

Motor Vehicle-Related Air Toxics Study—Availability of Public Review Draft

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of public review draft of motor vehicle-related air toxics study.

SUMMARY: Today's action provides notice of availability of a public review draft of the Motor Vehicle-Related Air Toxics Study. This report is required by section 202(l) (1) of the Clean Air Act as amended in 1990. A public review draft of the report is being released to provide interested parties with an opportunity to review the document and provide EPA with comments. Public comments received will be summarized in the final report, as required by section 202(l)(1).

DATES: Comments must be received by March 1, 1993.

ADDRESSES: To obtain a copy of this draft report, please send requests by fax or by mail to Penny M. Carey. Fax: (303) 668–4368. Mailing address: U.S. EPA National Vehicle and Fuel Emissions Laboratory, EPSD–TSB, 2565 Plymouth Road, Ann Arbor, MI 48105. A copy has also been placed in the public docket.

Written comments on the draft report should be sent in duplicate to Air Docket Section [LE–131], Attention: Docket No. A–91–19, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Agency requests that a separate copy also be sent to Penny M. Carey, U.S. EPA National Vehicle and Fuel Emissions Laboratory, EPSD–TSB, 2565 Plymouth Road, Ann Arbor, MI, 48105.

Materials relevant to this report have been placed in Docket No. A–91–19 by EPA. The docket is located at the above address in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Penny M. Carey, U.S. EPA National Vehicle and Fuel Emissions Laboratory, EPSD–TSB, 2565 Plymouth Road, Ann Arbor, MI, 48105. Telephone: (313) 668–4355.

SUPPLEMENTARY INFORMATION: Section 202 (l) (1) of the Clean Air Act directs EPA to complete a study of the need for, and feasibility of, controlling emissions of toxic air pollutants which are unregulated under this Act and associated with motor vehicles and motor vehicle fuels. The study shall focus on those categories of emissions that pose the greatest risk to human health or about which significant uncertainties remain, including emissions of benzene, formaldehyde, and 1,3-butadiene. The proposed report shall be available for public review and comment and shall include a summary of all comments.

Section 202(l)(2) also directs that, based on the study, EPA promulgate (and from time to time revise) regulations containing reasonable requirements to control hazardous air pollutants from motor vehicles and motor vehicle fuels. The regulations shall, at a minimum, apply to emissions of benzene and formaldehyde.

This study is the result of the first directive of section 202(l). Specific pollutants or pollutant categories which are discussed in this report include benzene, formaldehyde, 1,3-butadiene, acetaldehyde, diesel particulate, gasoline particulate, gasoline vapors, as well as selected metals and motor vehicle-related pollutants identified in section 112 of the Clean Air Act. The study focuses on carcinogenic risk, which is the major impact of benzene, 1-3-butadiene, and formaldehyde, emissions specifically mentioned in section 202(l)(1). The report also discusses non-cancer effects for these and other pollutants.

With respect to benzene, formaldehyde, 1,3-butadiene, acetaldehyde, diesel particulate, gasoline particulate, and gasoline vapors, the draft report discusses the chemical and physical properties of the pollutant, formation and control technology, emissions (including other emission sources), atmospheric reactivity and residence times, exposure estimation, EPA's carcinogenicity assessment, other views of carcinogenicity assessment, recent and ongoing research, carcinogenic risk, and non-carcinogenic health effects from inhalation exposure. The draft report also describes the qualitative change in toxic pollutant levels with the use of alternative clean fuels, along with a summary of EPA's nonroad engine and vehicle study. Finally, the report discusses the costs of various existing

regulatory control programs and provides a qualitative discussion of the toxics benefits of these programs.

This report attempts to summarize what is known about motor vehicle-related air toxics and to present all significant scientific opinion on each issue.

Dated: January 7, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93-783 Filed 1-12-93; 8:45 am]

BILLING CODE 6560-50-M

[AMS FRL 4554-5]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Decision

AGENCY: Environmental Protection Agency.

ACTION: Notice regarding waiver of federal preemption.

SUMMARY: EPA is granting California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act to enforce amendments to its motor vehicle emission standards and test procedures to phase-in substantially more stringent "low-emission vehicle (LEV)" standards for light-duty vehicles. California also amended its corresponding regulations.

ADDRESSES: A copy of the above standards and procedures, the decision document containing an explanation of the Administrator's determination, and the record of those documents used in arriving at this decision, are available for public inspection during normal working hours (8:30 a.m. to 12 p.m. and 1:30 p.m. to 3:30 p.m.) at the U.S. Environmental Protection Agency, Air Docket (LE-131), (Docket A-91-71), room M-1500, Waterside Mall, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Robert Doyle or Karl Simon, as noted below.

FOR FURTHER INFORMATION CONTACT: Robert M. Doyle, Attorney/Advisor, or Karl J. Simon, Environmental Engineer, Manufacturers Operations Division (6405-J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone: (202) 233-9258 (R. Doyle), (202) 233-9299 (K. Simon).

SUPPLEMENTARY INFORMATION: I have decided to grant California a waiver of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b), for amendments to its exhaust emission standards and test procedures which establish new categories of light-duty vehicles based on levels of exhaust emission standards.[1] These amendments also require manufacturers to meet a "Non-Methane Organic Gas" fleet average requirement, a "Zero Emission Vehicle" production requirement, and other requirements. A comprehensive description of the California LEV program can be found in the decision document for this waiver and in materials submitted to the Docket by CARB.

Section 209(b) of the Act provides that, if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. The criteria include consideration of whether California arbitrarily and capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards; whether California needs State standards to meet compelling and extraordinary conditions; and whether California's amendments are consistent with section 202(a) of the Act.

CARB determined that these standards and accompanying enforcement procedures do not cause California's standards, in the aggregate, to be less protective to public health and welfare than the applicable Federal standards. Information presented to me by parties opposing California's waiver request did not demonstrate that California arbitrarily or capriciously reached this protectiveness determination. Therefore, I cannot find California's determination to be arbitrary and capricious.

CARB has continually demonstrated the existence of compelling and extraordinary conditions justifying the need for its own motor vehicle population control program, which includes the subject standards and procedures. No information has been submitted to demonstrate that California no longer has a compelling and extraordinary need for its own program. Therefore, I agree that California continues to have compelling and extraordinary conditions which require its own program, and, thus, I cannot deny the waiver on the basis of the lack of compelling and extraordinary conditions.

CARB has submitted information that the requirements of its emission standards and test procedures are technologically feasible and present no inconsistency with Federal requirements and are, therefore, consistent with section 202(a) of the Act. Information presented to me by parties opposing California's waiver request did not satisfy the burden of persuading EPA that the standards are not technologically feasible within the available lead time, considering costs. In addition, California's amendments generally parallel the Federal certification test procedures, and do not establish inconsistent test procedures. Accordingly, I hereby grant the waiver requested by California.

My decision will affect not only persons in California but also the manufacturers outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this is a final action of national applicability.

Under section 307(b)(1) of the Act, judicial review of this final action may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for review must be filed by March 15, 1993. Under section 307(b)(2) of the Act, judicial review of this final action may not be obtained in subsequent enforcement proceedings.

As with past waiver decisions, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: January 7, 1993.

William K. Reilly,

Administrator.

[FR Doc. 93-784 Filed 1-12-93; 8:45 am]

BILLING CODE 6560-50-M

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[1] California's waiver request ("LEV waiver request") also included amendments establishing new standards for certain low-emission categories of medium-duty vehicles ("MDVs"). There is a pending waiver request from the California Air Resources Board (CARB) for other regulatory amendments pertaining to MDVs (Docket A-91-55; see 57 FR 909 (January 9, 1992)) which was submitted to ERA before the LEV waiver request. Because my action on the LEV waiver request precedes my action on Docket A-91-55, I will defer action on the portions of the LEV waiver request that add new standards and requirements for the low-emission categories of MDVs until action is taken on the MDV waiver request. Therefore, these MDV amendments should not be considered as included in the CARB regulations which are the subject of this waiver. (CARB is in agreement with this deferral.)

[OPP-66171; FRL-4182-2]

Methazole; Receipt of Request for Voluntary Cancellation; Cancellation Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to cancel registrations.

SUMMARY: This notice, pursuant to section 6(f)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), announces EPA's receipt and acceptance of a request from Sandoz Agro, Inc. to voluntarily cancel the remaining registrations of pesticide products containing methazole (2-(3,4-dichlorophenyl)-4-methyl-1,2,4-oxadiazolidine-3,5-dione). Sandoz Agro, Inc. is the sole registrant of methazole products. EPA is accepting the voluntary cancellation request based on FIFRA section 6(a)(2) data submitted by the registrant to the Agency which indicates that unreasonable worker risks may be associated with the use of methazole. This notice also announces the restriction of distribution and sale of canceled methazole products until additional toxicological data regarding the potential risks have been considered by the Agency.

DATES: The cancellations and interim restriction of distribution and sale of existing stocks are effective on January 13, 1993.

FOR FURTHER INFORMATION CONTACT: By mail: Joseph Bailey, Special Review and Reregistration Division (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Special Review Branch, Room 2G6, Crystal Station 1, 2800 Jefferson Davis Highway, Arlington, VA (703) 308-8173.

SUPPLEMENTARY INFORMATION:

I. Background

Methazole is a selective herbicide used to control several varieties of weeds in cotton. It is registered for preemergence use west of the Mississippi and directed postemergence use both east and west of the Mississippi. Its use is prohibited in the states of Arizona and California. Most of the methazole produced for cotton production is applied in Louisiana and Mississippi with some use occurring in other cotton producing states. The season for methazole use typically begins in April/May.

II. Voluntary Cancellation

Under FIFRA section 6(f)(1)(A), registrants may request at any time that EPA cancel any of their pesticide registrations. If the pesticide for which cancellation was requested is registered for any minor agricultural use, section 6(f)(1)(C) dictates that EPA publish in the **Federal Register** a notice of the receipt of the cancellation request, and allow 90 days for public comment before granting the request unless either the registrants request a waiver of the 90-day period or the Administrator determines that the continued use of the pesticide would pose an unreasonable adverse effect on the environment.

On May 18, 1992, Sandoz Agro, Inc. requested voluntary cancellation of the remaining two registered methazole products. Prior to the submission of the voluntary cancellation request, Sandoz Agro, Inc. had submitted to the Agency, pursuant to FIFRA section 6(a)(2), preliminary results from a rat reproduction study indicating that a high percentage of the dosed generation's offspring developed cataracts. The Agency concluded from these test results that an unacceptable risk is possible to those workers exposed to methazole, particularly mixer/loaders and applicators. The products for which cancellation was requested are listed in Table 1 (section 3 registrations only) below.

On August 12, 1992, the Agency notified Sandoz Agro, Inc. that it had accepted their request for voluntary cancellation; however, due to the potential risks posed to workers exposed to methazole, the Agency waived the 90-day comment period usually afforded to such voluntary cancellations. In the Agency's notice, it was stated that a cancellation order establishing provisions for existing stock disposition would be forthcoming.

Table 1.—Methazole Section 3 (national) Registrations: Voluntary Cancellation Requests

Company Registration Number	Company Name/Address	Product Registration Number	Product Name
55947	Sandoz Agro, Inc. 1300 East Touhy Avenue Des Plaines, IL 60018	55947-22 55947-23	Technical Probe Probe 75 Wettable Powder

Methazole will no longer be considered a registered active ingredient and will be removed from List B reregistration chemicals. Once an active ingredient is canceled, any person wishing to bring the pesticide back on the market would need to apply to EPA for a "new chemical" registration. Such a registration generally would not be approved until all applicable data requirements are satisfied.

III. Existing Stocks Provision

In accordance with the Agency's June 26, 1991 Existing Stocks of Pesticide Products Statement of Policy, distribution and sale of existing stocks of canceled pesticide products that raise risk concerns will not be allowed unless it is demonstrated that such distribution and sale would not result in unreasonable adverse effects. At this time, the Agency is not granting any provisions for the distribution and sale of existing stocks of methazole products. The Agency has agreed to consider additional data to be submitted by Sandoz Agro, Inc. which may provide a more refined risk assessment for workers exposed to methazole. Methazole is no longer being produced by Sandoz Agro, Inc. and the only remaining stocks are held in the chain of distribution by sellers, distributors, and end-users. FIFRA section 12(a)(1)(A) states that it is unlawful for any person in any state to distribute or sell to any person any pesticide whose registration has been canceled unless such distribution or sale has been authorized by the Administrator. Therefore, distributors and sellers with methazole products in their possession are responsible to ensure that any existing stocks held are not distributed or sold until the Agency provides notification of a final decision on the disposition of such existing stocks. Sandoz Agro, Inc. has notified customers who may have methazole in their possession that they should not move any of the existing stocks until the Agency has reviewed the additional data and reached a final determination regarding the potential risk. Existing stocks in the hands of end-users may continue to be used until such stocks are exhausted provided that such use is in strict accordance with the product's previously-approved labeling.

Dated: December 24, 1992.
Douglas D. Campt,
Director, Office of Pesticide Programs.
[FR Doc. 93–788 Filed 1–12–93; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL DEPOSIT INSURANCE CORPORATION

Information collection submitted to OMB for review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Revision of a currently approved collection.
Title: Certified Statement—Semiannual Deposit Insurance Assessment.
Form Number: FDIC 6420/07, 6420/10, 6420/11.
OMB Number: 3064–0057.
Expiration Date of Current OMB Clearance: 02/28/93.
Frequency of Response: Semiannually.
Respondents: Insured depository institutions that are members of the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF).
Number of Respondents: 14,500.
Number of Responses Per Respondent: 2.
Total Annual Responses: 29,000.
Average Number of Hours Per Response: 1.
Total Annual Burden Hours: 29,000.
OMB Reviewer: Gary Waxman, (202) 395–7340, Office of Management and Budget, Paperwork Reduction Project 3064–0057, Washington, DC 20503.
FDIC Contact: Steven F. Hanft, (202) 898–3907, Office of the Executive Secretary, room F–400, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
Comments: Comments on this collection of information are welcome and should be submitted on or before March 15, 1993.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to extend the period of use of the forms filed by insured depository institutions that are members of the Bank Insurance Fund (BIF) and the Savings Association Insurance Fund (SAIF) certifying the semiannual assessment due under the provisions of section 7 of the Federal Deposit Insurance Act. The forms show the deposit liabilities, less authorized deductions, the computation of the assessment base and the amount of the assessment due for each semiannual assessment period involved. The FDIC is also requesting approval for minor revisions to the forms. Further, the FDIC is also requesting permission to combine OMB collection 3064–0101 (Assessment for SAIF Members) and OMB collection 3064–0057 (Assessments for BIF Members) into a single collection. The combination is an administrative convenience that will not affect the reporting requirements contained in the collections.

Dated: January 8, 1993.
Federal Deposit Insurance Corporation
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 93–776 Filed 1–12–93; 8:45 am]
BILLING CODE 6714–01–M

Coastal Barrier Improvement Act Property Availability; Chambers Tract I (735.66 acres), Chambers County, TX

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as the "Chambers Tract I" located in Chambers County, Texas is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written Notices of Serious Interest to purchase or effect other transfer of the property may be mailed or fixed to the Federal Deposit Insurance Corporation until April 13, 1993.

ADDRESSES: Copies of detailed descriptions of the property can be obtained by contacting the following person: James Pridgen, Federal Deposit Insurance Corporation, 4440 Piedras Drive South, San Antonio, TX 78228, Telephone (210) 731–2049, Fax (210) 737–1101.

SUPPLEMENTARY INFORMATION: The 1537.79 acre property is divided into two tracts. Tract I and Tract II contain 735.66 and 802.13 acres respectively. Tract II is not covered under the Coastal Barrier Improvement Act. Tract I is located approximately one mile south of FM 1985, with frontage on the east side of the Anahuac National Wildlife Refuge road easement. The property is in the southeast quadrant of Chambers County, fronting the north boundary line of the Anahuac National Wildlife Refuge. The Tract is predominantly cleared, irrigated farm land with lower elevations along Oyster Bayou.

Written notice of serious interest to purchase the property must be received on or before April 13, 1993, by James Pridgen at the above address.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government.
2. Agencies or entities of the state or local government, and
3. "Qualified organizations" pursuant to section 170(h) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(s)).

FORM OF NOTICE: Notices of serious interest should be in the following form: Notice of Serious Interest re: Chambers Tract I Land, Chambers County, Texas.

1. Name of eligible entity.
2. Declaration of eligibility to submit notice under criteria set forth in Public Law 101–591, section 10(b)(2).
3. Brief description of proposed terms of purchase or other offer (e.g. price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural or natural resource conservation purposes.

Dated: January 7, 1993.
Federal Deposit Insurance Corporation
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 93–699 Filed 1–12–93; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Jacksonville/ Marine Transportation Services, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before

communicating with the Commission regarding a pending agreement.

Agreement No. 224–200468–003.
Title: Jacksonville/Marine Transportation Services Sea Barge Group Terminal Agreement.
Parties: Jacksonville Port Authority Marine Transportation Services Sea Barge Group, Inc.
Synopsis: The amendment modifies Agreement provisions pertaining to the commencement of throughput charges and to rental and other rates specified in the Agreement.
Agreement No. 224–200713.
Title: L.A. Cruise Ship Terminals/ Holland America Terminal Agreement.
Parties: L.A. Cruise Ship Terminals, Inc. ("L.A. Cruise") Holland America Lines Westours Inc. ("Holland America").
Synopsis: The Agreement provides that L.A. Cruise will provide terminal facilities and services to Holland America in the Port of Los Angeles.
Agreement No. 207–011397.
Title: Empremar/CTE Agreement.
Parties: Empremar S.A. Compania Trasatlantica Espanola S.A.
Synopsis: The proposed Agreement permits the parties to operate a joint service in the trade between U.S. Atlantic and Gulf ports and points, and ports and points in Venezuela, Mexico, Columbia, Ecuador, Peru and Chile. It also permits the parties to agree on the number of vessels they will operate, pool profits, and establish rates, charges, rules and practices. The parties have requested a shortened review period.

Dated: January 7, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–705 Filed 1–12–93; 8:45 am]

BILLING CODE 6730–01–M

Agreement(s) Filed; Houston/Port-Cooper/T. Smith Stevedoring, et al.

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.602 and/or 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 224–200715.
Title: Houston/Terminal Agreement.
Parties: Port of Houston Authority ("Port") Port-Cooper/T. Smith Stevedoring ("Cooper").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreement permits Cooper to utilize the Port's Open & Shed Areas Number 16 through 18 for cargo handling purposes during calendar years 1993 and 1994.
Agreement No.: 224–200716.
Title: Houston/Flanagan Stevedores Terminal Agreement.
Parties: Port of Houston Authority ("Port") James J. Flanagan Stevedores ("Flanagan").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreement permits Flanagan to utilize the Port's Open & Shed Areas Number 21 through 24 W. for cargo handling purposes during calendar years 1993 and 1994.
Agreement No.: 224–200718.
Title: Houston/Strachan Shipping Terminal Agreement.
Parties: Port of Houston Authority ("Port") Strachan Shipping Company ("Strachan").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreement permits Strachan to utilize the Port's Barbours Cut Transit Shed Number Two Section B (West) for cargo handling purposes during calendar years 1993 and 1994.
Agreement No.: 224–200719.
Title: Houston/Ryan Walsh Terminal Agreement.
Parties: Port of Houston Authority ("Port") Ryan Walsh Incorporated ("Ryan Walsh").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreements permits Ryan Walsh to utilize the Port's Open and Shed Areas Number 30 and 32 for cargo handling purposes during calendar years 1993 and 1994.
Agreement No.: 224–200720.
Title: Houston/Ceres Gulf Terminal Agreement.
Parties: Port of Houston Authority ("Port") Ceres Gulf Incorporated ("Ceres Gulf").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreement permits Ceres Gulf to utilize the Port's Open and Shed and Shed Areas Number 19 and 20 for cargo handling purposes during calendar years 1993 and 1994.
Agreement No.: 224–200721.
Title: Houston/Port Houston Terminal C.E.S., Inc. Terminal Agreement.
Parties: Port of Houston Authority ("Port") Port Houston Terminal C.E.S., Inc. ("PHT, Inc.").
Filing Party: Martha T. Williams, Staff Counsel, Port of Houston, 111 East Loop North, P.O. Box 2562, Houston, Texas 77252–2562.
Synopsis: The Agreement PHT, Inc. to utilize the Port's Open and Shed Areas Number 8 and 9 for cargo handling purposes during calendar years 1993 and 1994.

Dated: January 7, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–706 Filed 1–12–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Community Bank-Corp. of Sheboygan, Inc., et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than February 5, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Community Bank-Corp. of Sheboygan, Inc., Sheboygan, Wisconsin; to acquire G & H Insurance Agency, Sheboygan, Wisconsin, which will become Community Insurance and Financial Services, Inc., Sheboygan, Wisconsin, and thereby engage in insurance agency activities pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in the State of Wisconsin.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Zions Bancorporation, Salt Lake City, Utah; to enter into a joint venture with American Bankers Insurance Group, Inc., Miami, Florida, by selling American Bankers Insurance Group, Inc., approximately $1.5 million in variable rate voting preferred stock of Zions Bancorporation's wholly-owned subsidiary, Zions Insurance Company, Salt Lake City, Utah, and to continue to engage through the latter in credit life, accident and disability insurance activities pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–772 Filed 1–12–93; 8:45 am]

BILLING CODE 6210–01–F

Creditanstalt-Bankverein, et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 1, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Creditanstalt-Bankverein, Vienna, Austria; to engage *de novo* through its subsidiary, Steinberg Asset Management Company, L.P., New York, New York, in investment advisory activities pursuant to § 225.25(b)(4) of the Board's Regulation Y.

2. Internationale Nederlanden Group N.V., Amsterdam, The Netherlands; to engage *de novo* through its subsidiary, Internationale Nederlanden Capital Corporation, New York, New York, in making, servicing, and acquiring loans and other extensions of credit (including issuing letters of credit and accepting drafts), directly or indirectly, for ING's own account or the account of others, such as would be made, for example, by a consumer or commercial finance, credit card, mortgage or factoring company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

3. Internationale Nederlanden Group N.V., Amsterdam, The Netherlands; to engage *de novo* through its subsidiary, Internationale Nederlanden Securities Corporation, New York, New York, in providing securities brokerage services, related securities credit activities, and incidental activities such as offering custodial services, individual retirement accounts, and cash management services solely as agent for the account of customers and providing such securities brokerage services in combination with the investment advisory services listed below; serving as an advisory company for mortgage and real estate investment trusts; serving as investment adviser to investment companies registered under the Investment Company Act of 1940, including sponsoring, organizing, and managing closed-end investment companies; providing portfolio investment advice to any other person; furnishing general economic information and advice, general economic statistical forecasting services and industry studies; providing financial advice to state and local and foreign governments, such as with respect to the issuance of their securities; providing financial and transactional advice to institutional customers with respect to restructuring, financing and negotiating mergers, acquisitions, divestitures, joint ventures, leveraged buyouts, recapitalizations, capital structurings, structuring and arranging loan syndications, financings and other corporate transactions, rendering fairness opinions, providing valuation services, and conducting feasibility studies; and providing financial and transactional advice regarding the structuring and arranging of swaps, caps, and similar transactions relating to interest rates, currency exchange rates or prices, and economic financial indices pursuant to § 225.25(b)(4) and (b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–773 Filed 1–12–93; 8:45 am]

BILLING CODE 6210–01–F

First Fidelity Bancorporation, 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 February 5, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. First Fidelity Bancorporation, Lawrenceville, New Jersey; to acquire 100 percent of the voting shares of Northeast Bancorp, Inc., New Haven, Connecticut, and thereby indirectly acquire Union Trust Company, Stamford, Connecticut.

B. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Fidelity Bancorp, Inc., Pittsburgh, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Fidelity Savings Bank, Pittsburgh, Pennsylvania.

C. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. CCB Financial Corporation, Durham, North Carolina; to acquire 100 percent of the voting shares of CCB Savings Bank, Inc., SSB, Lenoir, North Carolina, the successor by conversion to Mutual Savings Bank.

2. Horizon Bancorp, Inc., Beckley, West Virginia; to merge with Allegheny Bankshares Corporation, Lewisburg, West Virginia, and thereby indirectly acquire Greenbrier Valley National Bank, Lewisburg, West Virginia, and First National Bank in Marlinton, Marlinton, West Virginia.

D. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Century Bancorp, Inc., Milledgeville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Century Bank and Trust, Milledgeville, Georgia.

E. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. LeRoy C. Darby, Inc., Monona, Iowa; to merge with Keystone Bancshares, Inc., Elkader, Iowa, and thereby indirectly acquire Peoples State Bank, Elkader, Iowa.

2. Midstates Bancshares, Inc., Missouri Valley, Iowa; to acquire 98.33 percent of the voting shares of Peoples National Bank, Avoca, Iowa.

F. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Community First Bankshares, Inc., Fargo, North Dakota; to merge with Citizens Bancorp, Inc., Morris, Minnesota, and thereby indirectly acquire Citizens Bank, Morris, Minnesota.

2. First National Corporation North Dakota, Grand Forks, North Dakota; to become a bank holding company by becoming the sucessor by merger with First National Corporation, Grand Forks, North Dakota, and thereby indirectly acquire First National Bank North Dakota, Grand Forks, North Dakota.

3. Mellette Holding Company, Mellette, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers State Bank of Mellette, Mellette, South Dakota.

G. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Archer, Inc., Palmer, Nebraska, and Osceola Insurance, Inc., Osceola, Nebraska; to acquire 14.6 percent of the voting shares of Guaranty Corporation, Denver, Colorado, and thereby indirectly acquire Guaranty Bank and Trust Company, Denver, Colorado.

Board of Governors of the Federal Reserve System, January 7, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–774 Filed 1–12–93; 8:45 am]

BILLING CODE 6210–01–F

Van Buren Bancorporation Employee Stock Ownership Plan, et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) 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, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 5, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Van Buren Bancorporation Employee Stock Ownership Plan, Keosauqua, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Van Buren Bancorporation, Keosauqua, Iowa, and thereby indirectly acquire State Savings Bank, Cantril, Iowa, and Farmers State Bank, Keosauqua, Iowa.

In connection with this application, Applicant and Van Buren Bancorporation have applied to engage *de novo* in the making, servicing or acquisition of loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to merge with Financial Concepts Bancorp, Inc., Green Bay, Wisconsin, and thereby indirectly acquire University Bank, Green Bay, Wisconsin.

In connection with this application, Applicant also proposes to acquire the mortgage servicing business of University Bank, Green Bay, Wisconsin, and thereby engage in mortgage banking activities including portfolio servicing through Norwest's subsidiary, Norwest Mortgage, Inc., pursuant to § 225.25(b)(1) of the Board's Regulation Y; and to acquire the brokerage business of University Bank, Green Bay, Wisconsin, and thereby engage in full-service brokerage, government securities, and limited underwriting activities in Green Bay, Wisconsin, through Norwest's subsidiary, Norwest Investment Services, Inc., pursuant to Board Order. *Norwest Corporation*, 76 Federal Reserve Bulletin 79 (1990). These activities will be conducted in Green Bay, Wisconsin.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Green Top, Inc., Central City, Nebraska; to merge with Anmer Corporation, Neligh, Nebraska, and thereby indirectly acquire 97.19 percent of First United Bank, Neligh, Nebraska, and 64.07 percent of the voting shares of Schuyler State Bank and Trust Co., Schuyler, Nebraska; Dawson Corporation, Lexington, Nebraska, and thereby indirectly acquire 84.28 percent of The Farmers State Bank and Trust Co., Lexington, Nebraska; Heartland Bancorporation, Aurora, Nebraska, and thereby indirectly acquire 80.04 percent of The Farmers State Bank and Trust Co., Aurora, Nebraska, and 100 percent of The Crete State Bank, Crete, Nebraska; North Platte Corporation, Torrington, Wyoming, and thereby indirectly acquire 95.9 percent of The Citizens Bank & Trust Co., Torrington, Wyoming, 100 percent of The First National Bank, Worland, Wyoming, and 95.86 percent of the voting shares of Western Bank of Cody, Cody, Wyoming; Pinnacle Bancorp, Inc., Ft. Lupton, Colorado, and thereby indirectly acquire 90.53 percent of the voting shares of First Security Bank, Ft. Lupton, Colorado, 100 percent of First Security Bank, Craig, Colorado; and 100 percent of First Security Bank, Windsor, Colorado; Pinnacle Bancorp, Inc., Abilene, Kansas, and thereby indirectly acquire 98 percent of First National Bank, Abilene, Kansas; Pinnacle Bancorp, Inc., Papillion, Nebraska, and thereby indirectly acquire 96.35 percent of Bank of Papillion, Papillion, Nebraska; Pinnacle Bancorp, Inc., Newcastle, Wyoming, and thereby indirectly acquire 85.86 percent of First Security Bank, Newcastle, Wyoming; and Shelby Insurance, Inc., Shelby, Nebraska, and thereby indirectly acquire 100 percent of The First National Bank, Shelby, Nebraska.

In connection with this application, Applicant also proposes to engage *de novo* in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 7, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-775 Filed 1-12-93; 8:45 am]

BILLING CODE 6210-01-F

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

Scholarships; Closing Date for Nominations From Eligible Two-Year Institutions of Higher Education

Notice is hereby given that, pursuant to the authority contained in the Harry S. Truman Memorial Scholarship Act, Public Law 93-642 (20 U.S.C. 2001), nominations are being accepted from eligible two-year institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR Part 1801, and were published in the **Federal Register** on September 23, 1991 (56 FR 48076).

In order to be assured of consideration, all documentation in support of nominations must be received by The Truman Scholarship Review Committee, Recognition Programs, Operations Division, 2255 North Dubuque Road, Iowa City, Iowa 52243 no later than February 25, 1993.

Louis H. Blair,

Executive Secretary.

[FR Doc. 93-714 Filed 1-12-93; 8:45 am]

BILLING CODE 6820-AB-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Agency Information Collection Under OMB Review

AGENCY: Office of Financial Management, Administration for Children and Families, HHS.

ACTION: Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) a request for approval of a reinstatement of a previously approved information collection titled: "The Annual Budget Request for Title IV-B Funds and Annual Summary of Child Welfare Services". This request is made by the Office of Financial Management of the Administration for Children and Families (ACF).

ADDRESSES: Copies of the Information Collection request may be obtained from Steve Smith of the Office of Information Systems Management, ACF, by calling (202) 401-9235.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Kristina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC 20503, (202) 395-7316.

Information on Document

Title: Annual Budget Request for Title IV-B Funds and Annual Summary of Child Welfare Services Form CWS-101

OMB No.: 0980-0047

Description: The Annual Budget Request for title IV-B Funds and the Annual Summary of Child Welfare Services are two companion information collection documents which States must submit to the Administration for Children and

Families to request grant awards under title IV–B of the Social Security Act. The purpose of title IV–B grants is to enable the Federal government to cooperate with State public welfare agencies in establishing, extending, and strengthening child welfare services. The information obtained from the use of Form CWS–101 Annual Budget Request for title IV–B Funds will enable States and Indian Tribal Organizations to request its share of the federal allotment. Without this information, no grant amounts can be determined and no grants can be made.

The form used for the collection of information for the Annual Summary of Child Welfare Services will be submitted by States to provide a summary of child welfare services for the next year by service, by source of funds, and by number of clients to be served. Indian Tribal Organizations do not need to submit the Annual Summary of Child Welfare Services.

Annual Number of Respondents: 95
Annual Frequency: 1.5
Average Burden Hours Per Response: 6
Total Burden Hours: 855

Dated: December 30, 1992.

Larry Guerrero,

Deputy Director, Office of Information Systems Management.

[FR Doc. 93–679 Filed 1–12–93; 8:45 am]

BILLING CODE 4130–01–M

Centers for Disease Control and Prevention

Clinical Laboratory Improvement Advisory Committee (CLIAC) Subcommittee on Test Categorization; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: CLIAC Subcommittee on Test Categorization.

Time and Date: 8 a.m.–5 p.m., January 29, 1993.

Place: CDC, Auditorium A, Building 2, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The subcommittee will advise CLIAC on revisions to the list of waived tests and the categorization of tests of moderate and high complexity.

Agenda: This is the initial meeting of this subcommittee. The agenda will include a review of the criteria used and the tests currently contained on the waived test list; a review of the categorization of high-density lipoproteins (HDL) cholesterol test systems; a discussion of the Gram stain, Tzank and other test systems relative to the physician-performed miscroscopy category; a review of direct antigen tests for Group A Streptococcus; and other pertinent test issues.

Written comments are welcome and should be received by the contact person listed below no later than January 20, 1993. Copies of comments that are germane to the topics on the agenda will be supplied to the subcommittee members for review prior to the meeting. Public oral comments will be accepted at the discretion of the Chairman at the close of the meeting if time permits.

Agenda items are subject to change as priorities dictate.

Contact Person for Additional Information: Henry M. Colvin, Assistant Director for Program Policy, Division of Laboratory Systems, Public Health Practice Program Office, CDC, 1600 Clifton Road, NE., Mailstop G–25, Atlanta, Georgia 30333, telephone 404/639–1706.

Dated: January 7, 1993.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–715 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–18–M

Advisory Council for the Elimination of Tuberculosis; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Time and Dates: 8:30 a.m.–4:30 p.m., January 28, 1993. 8:30 a.m.–3:30 p.m., January 29, 1993.

Place: Lanier Plaza Conference Center, Executive II and III Conference Rooms, 418 Armour Drive, NE., Atlanta, Georgia 30324.

Status: Open to the public, limited only by the space available.

Purpose: This Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters To Be Discussed: The status of antituberculosis drug distribution by CDC, and antituberculosis drug costs; criteria for a model TB program; results of the National Survey of Physicians' Knowledge and Practices Concerning Tuberculosis, and the Ethnographic Studies of Five At-Risk Groups; limitations of population-based tuberculin skin test screening; new Guidelines for Preventing Tuberculosis Transmission; Tuberculosis in Jails; global TB control efforts; Recommendations for State TB Control Laws; and surveillance case definition for tuberculosis.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Dixie E. Snider, Jr., M.D., Associate Director for Science, and Executive Secretary, ACET, National Center for Prevention Services, CDC, 1600 Clifton Road, NE., Mailstop E–07, Atlanta, Georgia 30333, telephone 404/639–2776.

Dated: January 7, 1993.

Robert L. Foster,

Assistant Director, Office of Program Support, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–716 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Temporary Deferment of Activities Relating to Biologics Submissions

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Document Control Center of the Center for Biologics Evaluation and Research (CBER) will be moving from various locations in Rockville and Bethesda, MD to the Woodmont Office Center in Rockville, MD in January, 1993. During the period required for relocation of the office, the agency will temporarily defer those submissions subject to CBER review and approval, and the review period, if any, on pending submissions will be suspended. FDA is also requesting that sponsors voluntarily refrain from filing submissions during this period.

FDA estimates that the deferment period will be about 3 weeks. FDA will publish a notice providing the new

address for submissions and identifying the exact period during which action on pending submissions was temporarily deferred.

FOR FURTHER INFORMATION CONTACT: Mark A. Elengold, Center for Biologics Evaluation and Research (HFM–11), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–9000.

SUPPLEMENTARY INFORMATION: CBER is responsible for many FDA activities implementing the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act (42 U.S.C. 262), including:

(1) Developing policy and procedures governing the premarket approval, review, and evaluation of biological products;

(2) Receiving, reviewing, evaluating, and taking appropriate action on investigational new drug applications (IND's) and investigational device exemption applications (IDE's) for certain products for which CBER has been assigned responsibility;

(3) Receiving, reviewing, evaluating, and taking appropriate action on product license applications (PLA's) and establishment license applications (ELA's) submitted for biological products;

(4) Receiving, reviewing, evaluating, and taking appropriate action on new drug applications (NDA's), premarket approval applications (PMA's), and premarket notifications (510k's) for which CBER has been assigned responsibility; and

(5) Receiving, reviewing, evaluating, and taking appropriate action on recommendations concerning denial, suspension, or revocation of PLA's and ELA's.

In an effort to consolidate CBER offices, FDA is moving various CBER offices from their present locations in Bethesda and Rockville, MD to the Woodmont Office Center in Rockville, MD. This move will occur in January, 1993. Because FDA will be moving staff, equipment, and files, CBER will be unable to start work or continue work on existing submissions and reports until its new offices are ready; therefore, FDA plans to temporarily defer action on those submissions subject to CBER review and approval, including IND's, PLA's, ELA's, NDA's, 510k's, PMA's, or IDE's. FDA is also requesting that sponsors voluntarily refrain from filing submissions during this period, which began on January 2, 1993, and will continue until January 22, 1993.

FDA anticipates that this period will be about 3 weeks or less. During this period, although FDA will continue to accept mail, it will not be officially logged in nor will review of submissions begin. Any review period will not begin until the relocation is completed and CBER review functions resume. CBER will attempt to keep the mail in the order of the day received. When work resumes, it will be done according to the order that it was received. Also, the review periods on pending submissions will be suspended during the relocation period. CBER will attempt to minimize the period during which regular procedures are suspended. Following the move, FDA will publish a notice providing the new address for submissions and identifying the exact period during which action on new and existing submissions was temporarily deferred.

Persons who may be affected by this temporary deferment should call the contact person listed above or CBER's Division of Congressional and Public Affairs at 301–295–9000 with any questions regarding CBER's move to the Woodmont Office Center. Questions regarding emergency IND's and waiver of the 30-day waiting period for IND's will be directed to appropriate staff.

Dated: January 7, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–740 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 84N–0241]

1992 Revision of the National Shellfish Sanitation Program Manual of Operations, Part I "Sanitation of Shellfish Growing Areas" and Part II "Sanitation of the Harvesting, Processing, and Distribution of Shellfish;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the 1992 revision of the National Shellfish Sanitation Program (NSSP) Manual of Operations, part I, "Sanitation of Shellfish Growing Areas" and part II, "Sanitation of the Harvesting, Processing, and Distribution of Shellfish." This project was initiated in cooperation with the Interstate Shellfish Sanitation Conference (ISSC) to help assure that only safe and sanitary shellfish are offered for sale in interstate commerce.

ADDRESSES: Submit written requests for single copies of the manual (free of charge) to the Food and Drug Administration, Shellfish Sanitation Branch (HFS–407), 200 C St. SW., Washington, DC 20204. Requests should be identified with the docket number found in brackets in the heading of this document. Send two self-addressed adhesive labels to assist that office in processing your requests. The manual is available for public examination in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: David M. Dressel, Office of Seafood, Center for Food Safety and Applied Nutrition (HFS–407), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–3971.

SUPPLEMENTARY INFORMATION: FDA is responsible for the Federal administration of the NSSP, which is a voluntary program involving State shellfish control agencies, the shellfish industry, FDA, and other Federal agencies. Six foreign countries also actively participate in the NSSP through international bilateral agreements.

The NSSP is concerned with the sanitary control of fresh and frozen molluscan shellfish (oysters, clams, mussels, and scallops) offered for sale in interstate commerce. The program has been in existence since 1925. In the interest of assuring uniform administrative and technical controls, the NSSP has developed and maintained recommended shellfish control practices. These control practices have been published in the form of a Manual of Operations, parts I and II.

In 1982, interested State officials and members of the shellfish industry formed the ISSC. The purpose of the ISSC is to provide a formal structure wherein State regulatory authorities can establish updated guidelines for improving shellfish sanitation and safety. The ISSC has established uniform procedures for developing and adopting new guidelines. Those persons interested in obtaining additional information about the ISSC should contact Kenneth Moore, Chairman, Interstate Shellfish Sanitation Conference, c/o South Carolina Department of Health and Environmental Control, 2600 Bull St., Columbia, SC 29202.

FDA and the ISSC entered into a memorandum of understanding (MOU) that was published in the Federal Register of March 30, 1984 (49 FR 12751). This agreement states, among other things, that FDA will provide technical assistance to the ISSC, including participating in the

cooperative efforts of the Conference, to develop or revise program criteria and guidelines.

Based on the MOU, FDA developed draft revisions of the NSSP Manual of Operations, parts I and II, in cooperation with the ISSC. FDA announced the availability of the 1986 revision of part I in the **Federal Register** of June 5, 1987 (52 FR 21375). The initial working draft of part II was made available for comment in the **Federal Register** of September 11, 1985 (50 FR 37055), with a revised second draft being made available for further comment on July 11, 1986 (51 FR 25261). Based on the comments received, and in consideration of the comments and views expressed on parts I and II by State regulatory officials, industry representatives, and other interested parties at the ISSC's 1987 and 1988 annual meetings in Austin, TX, and Denver, CO, respectively, FDA announced the availability of the 1988 revision of the completed Manual of Operations in the **Federal Register** of February 17, 1989 (54 FR 7281). Subsequent revisions were announced in the **Federal Register** of April 25, 1990 (55 FR 17503) and December 13, 1990 (55 FR 51341).

Continuing with this arrangement, FDA and ISSC are now announcing the availability of the 1992 revision of the NSSP Manual of Operations, part I, "Sanitation of Shellfish Growing Areas" and part II, "Sanitation of the Harvesting, Processing, and Distribution of Shellfish." The 1992 revision contains changes and improvements to the NSSP considered and passed at the 1991 and 1992 ISSC national meetings held in Fort Lauderdale, FL, and Schaumburg, IL.

The revised manual includes: (1) A completely new section devoted to aquaculture; (2) inclusion of scallops intended for consumption in the "whole animal" or "roe-on" product forms (scallop products consisting of only the adductor muscle are not covered by the NSSP); (3) guidelines that suggest increased frequency of data analysis by State officials who monitor and classify shellfish growing waters; and (4) new inspection criteria for use by State officials when certifying shellfish processors for listing in the Interstate Certified Shellfish Shippers List. Major topics include: General administrative and laboratory procedures; growing area surveys and classification; contingency plans for the control of marine biotoxins; and the accepted sanitary procedures for the harvesting, handling, shucking, and packing of shellfish.

Dated: January 6, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–693 Filed 1–12–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–93–2059; FR–2697–N–06]

Correction to Address Information in Lead-Based Paint Guidelines

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

ACTION: Notice; correction.

SUMMARY: This document updates and corrects the address of a public agency in Hawaii that was incorrectly set out in an appendix to the Department's April 18, 1990 published Lead-Based Paint Interim Guidelines. It has recently come to HUD's attention that the telephone number listed for the Honolulu, Hawaii agency was that of a private individual.

FOR FURTHER INFORMATION CONTACT: Janice Rattley, Director, Office of Construction, Rehabilitation and Maintenance, Office of Public and Indian Housing, room 4138, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708–1800 (TDD: (202) 708–0850). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On April 18, 1990, the Department published its Lead-Based Paint Hazard Identification and Abatement Guidelines (55 FR 14556).

Among other matters, the Guidelines contained a state-by-state listing of agencies conducting "Childhood Lead Poisoning Prevention Programs and Activities."

On page 14624 of the April 18, 1990 Guidelines, the listing for the State of Hawaii contained an incorrect telephone number. As a result of that publishing error, Hawaii resident's private number was carried as that of the agency, and this individual has received occasional telephone calls (including calls originating from the mainland from individuals not sensitive to the time zone difference experienced in Hawaii) intended for the agency.

The purpose of this document is to republish the name and telephone number of the appropriate Hawaiian state agency to be contacted on matters pertaining to childhood lead poisoning prevention activities:

That agency is: Children with Special Needs Branch, Department of Health, 741 Sunset Avenue, Honolulu, HI 96816, telephone (808) 733–9070, Alan Taniquchi, MD, Branch Chief.

Individuals and entities making use of HUD's Lead-Based Paint Guidelines are requested to take notice of this correction contained in the Published Guidelines.

Dated: January 7, 1993.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 93–713 Filed 1–12–93; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–93–7122–03–X218; AZA–054–92–2]

Arizona; Temporary Closure of Selected Public Lands in La Paz County, Arizona, During the Operation of the 1993 SCORE Parker 400 Off-Road Vehicle Race

AGENCY: Bureau of Land Management (BLM).

ACTION: Notice of temporary closure of selected public lands.

SUMMARY: The District Manager of the Yuma District announces the temporary closure of selected public lands under the District's administration. This action is being taken to provide for public safety and to prevent unnecessary environmental degradation during the officially permitted running of the 1993 SCORE Parker 400 Off-Road Vehicle Race.

DATES: January 20, 1993, through January 24, 1993.

FOR FURTHER INFORMATION CONTACT: BLM Rangers Rob Smith or Mark Harris, or Outdoor Recreation Planner Myron McCoy, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, telephone (602) 855–8017.

SUPPLEMENTARY INFORMATION: Specific restrictions and closure periods are as follows:

Designated Course

1. The portion of the course comprised of BLM lands, roads, and ways south of the Bill Williams River, east and north of Highway 72, and west of Wenden Road is closed to public vehicle use from midnight (12 a.m.) Wednesday, January 20, 1993, to noon (12 p.m.) Sunday, January 24, 1993 (Mountain Standard Time).

2. Vehicles are prohibited from the following four Wilderness Areas and one Wilderness Study Area:

a. AZ–050–12 (Gibraltar Mountain Wilderness Area)
b. AZ–050–15A (Swansea Wilderness Area)
c. AZ–050–71 (Buckskin Mountains Wilderness Area)
d. AZ–050–17 (East Cactus Plain Wilderness Area)
e. AZ–050–14A/B (Cactus Plain Wilderness Study Area)

3. The entire area encompassed by the designated course and all areas within 1 mile outside of the designated course are closed to all vehicles except authorized and emergency vehicles. Access routes leading to the course are closed to vehicles. All closed routes will be posted throughout the closure period.

4. Spectator viewing is limited to two designated spectator areas:

a. South of Shea Road (approximately 6 miles east of Parker, Arizona).

b. Bouse Road, also known as Swansea Road (about 1½ miles north of Bouse, Arizona).

Camping is allowed only in the two designated spectator areas. Vehicle travel or parking outside these designated locations is prohibited. All vehicles operated within these two locations shall be legally registered for street and highway operation. No off-highway vehicle use is permitted in the race area. Spectators should not bring their off-highway vehicles to the race as this activity is prohibited.

5. Vehicle parking or stopping along Bouse Road, Shea Road, and Swansea Road is prohibited except at the two designated spectator areas.

6. All vehicles operated within designated pit areas shall be legally registered for street and highway operation.

7. Spectators are not permitted on the race course or in any wash located within the race course, including all of Osborne Wash.

8. Cutting or collection of firewood is prohibited within the closure.

Signs and maps directing the public to the designated spectator areas will be provided by the BLM and the event sponsor.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or La Paz County. Vehicles under permit for operation by event participants must follow the race permit stipulations. Operators of permitted vehicles shall maintain a maxium speed limit of 35 miles per hour on all La Paz County and BLM roads and ways. This speed limit shall not apply to vehicles entered in the race during race day, Saturday, January 23, 1993.

Authority for closure of public lands is found in title 43, Code of Federal Regulations, subparts 8340 and 8341; title 43, Code of Federal Regulations, subpart 8360 and subpart 8364, § 1; and title 43, Code of Federal Regulations, subpart 8372. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $100,000 and/or imprisoned for not more than 12 months.

This notice is published under the authority of title 43, Code of Federal Regulations, subpart 8364.

Dated: January 7, 1993.

Bill D. Watters,

Acting Yuma District Manager.

[FR Doc. 93–719 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–32–M

Farmington District Advisory Council; Establishment

AGENCY: Bureau of Land Management, Interior.

ACTION: Farmington District Advisory Council; notice of establishment.

SUMMARY: This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act of 1972, 5 U.S.C. Appendix. Notice is hereby given that the Secretary of the Interior is establishing the Bureau of Land Management's (BLM) Farmington District Advisory Council, in New Mexico. The purpose of the Council will be to advise the BLM Farmington District Manager on the various citizens' interests concerning the management and use of the public land resources located within the newly created BLM Farmington District. The Council is required by the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1739.

The Council will be composed of 10 members, who will be appointed by and serve at the pleasure of the Secretary of the Interior. The initial appointments will be for staggered terms as follows: Three members will be appointed for a 1-year term, three members will be appointed for a 2-year term, and four members will be appointed for a 3-year term. Subsequent member appointments will be for 3-year terms. Members' eligibility for reappointment for additional terms may be affected by rules established by the Department of the Interior.

Council members will advise the District Manager on programs and policies concerning management of the public lands within the Farmington District. As required by the Federal Advisory Committee Act, 5 U.S.C. Appendix, membership of the Council is to be balanced in terms of points of view and functions to be performed. To achieve this balance, members will be selected from among persons who are qualified through education, training, knowledge, or experience to provide informed advice concerning eight categories of interest: Elected Official of General Purpose Government; Environmental Protection; Non-Renewable Resources; Public-at-Large Recreation; Renewable Resources; Transportation/Rights-of-Way; and Wildlife.

FOR FURTHER INFORMATION CONTACT: Committee Management Officer, Department of the Interior, 1849 C Street NW., Washington, DC 20240, telephone (202) 208–6182.

Dated: December 31, 1992.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 93–680 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–10–M

[UT–040–02–4830–01]

Cedar City District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Cedar City District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Public Law 92–463 of a meeting of the Cedar City District Advisory Council. Agenda items will include discussion about the Dixie and Escalante/Kanab Resource Management Plans, and an update of current district activities such as Warm Springs EIS, mining claims, North Creek Reservoir proposal, landfill closures, the Elk Plan, and desert tortoise activities.

DATES: February 18, 1993. The meeting will begin at 9:30 a.m. at the Cedar City District Office, 176 East D.L. Sargent Drive, Cedar City, Utah.

FOR FURTHER INFORMATION CONTACT: District Manager Gordon R. Staker, Cedar City District, 176 East D.L. Sargent Drive, Cedar City, Utah 84720. Telephone: 801–586–2401.

SUPPLEMENTARY INFORMATION: Advisory Council Meetings are open to the public. Interested persons may make oral statements or file written statements for the Council's consideration. Anyone wishing to make a statement notify the District Manager by Friday, February 12, 1993. A time limit may be established by the District Manager.

Dated: January 5, 1993.

Gordon R. Staker,

District Manager.

[FR Doc. 93–733 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–010–4212–13, CACA 31259]

Realty Action; Exchange of Public Land in Amador, Calaveras and Sacramento Counties, CA

AGENCY: Bureau of Land Management, Department of the Interior.

SUMMARY: The following described public land (surface and mineral estate) is being considered for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Selected Public Land

Selected Public Land

Amador County

T. 5N., R. 10E., M.D.M.
Sec. 16: NW¼SW¼
Sec. 17: N½N½SE¼, N½S½NE¼SE¼
Sec. 32: NE¼SE¼
Sec. 33: NW¼SW¼, SW¼NW¼

Calaveras County

T. 2N., R. 13N., M.D.M.
Sec. 11: lot 14
T. 3N., R. 13E., M.D.M.
Sec. 32: lots 23, 24, 25, 26, 27 and 28
T 6N., R. 14E. M.D.M.
Sec. 7: SW¼SE¼

Sacramento County

T. 8N., R. 8E., M.D.M.
Sec. 14: SW¼NE¼ excluding lot 1
Containing 270 acres, more or less.

The selected public land described above is hereby segregated from settlement, location and entry under the public land laws and from the mining laws for a period of two years from the date of publication of this notice in the **Federal Register.**

The above land is being considered for possible transfer to a nonprofit conservation organization. In exchange, the public would receive private land located on either the North Fork or South Fork of the American River or the Merced River, or marshlands and waterfowl habitat located in the California Central Valley. This proposal is considered to be in the public interest and is consistent with current land use plans.

SUPPLEMENTARY INFORMATION: The above described Federal land would be transferred subject to a reservation to the United States for ditches and canals; also any rights-of-way of record would be identified as prior existing rights.

All necessary clearances including clearances for archaeology, and rare plants and animals would be completed prior to any conveyance of title by the U.S.

FOR ADDITIONAL INFORMATION CONTACT: Contact Mike Kelley at (916) 985–4474 or at the address listed below.

ADDRESSES: For a period of 45 days from publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, c/o Area Manager, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

D.K. Swickard,

Area Manager

[FR Doc. 93–736 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–943–03–4210–04; IDI–26669]

Issuance of Land Exchange Conveyance Document; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: The United States has issued an exchange conveyance document to American Public Land Exchange Company, Inc. under section 206 of the Federal Land Policy and Management Act. The land acquired by the United States will remain closed to the public land, mining, and mineral leasing laws.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho, (208) 384–3163.

1. In an exchange made under the provisions of section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following described lands have been conveyed from the United States:

Boise Meridian

T. 4N., R. 18 E.,
Sec. 18, block 39, lot 7, and block 40, lots 6 to 8, inclusive, including vacated alley.
Comprising 0.52 acres of public land.

2. In exchange for these lands, the United States acquired the following described land:

Boise Meridian

T. 4 N., R. 17 E.,
Sec. 12, a subdivision of Tax Lot 4807 known as lot 2 of Industrial East Subdivision; excepting therefrom, the North 71 feet.
Comprising 1.48 acres of private land.

The purpose of the exchange was to acquire non-Federal land which has high public value for administrative site purposes. The public interest was well served through completion of the exchange. The values of the Federal and private lands were equal.

3. The land acquired by the United States will remain closed to the public land, mining, and mineral leasing laws.

Dated: January 4, 1993.

William E. Ireland, Chief,

Realty Operations Section.

[FR Doc. 93–681 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–GG–M

[ID–010–03–4210–04; IDI–28361]

Exchange of Public and Private Lands; Elmore County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action IDI–28361; exchange of public and private lands in Elmore County, Idaho.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Boise Meridian, Idaho

T. 4 S., R. 3 E.
Sec. 31: Lots 1, 2, 3,
Sec. 32: NW¼SW¼.
Containing 156 acres, more or less.

In exchange for the above described public lands, BLM will acquire the following described private lands from Jean M. Smith:

Boise Meridian, Idaho

T. 5 S., R. 3 E.
Sec. 9: Lots 2 and 3.
Containing 51.55 acres, more or less.

The purpose of this exchange is to dispose of public lands that have, for a number of years, been operated for concentrated livestock management purposes under the authority of section 4 of the Taylor Grazing Act. These public lands possess very little public resource value, are difficult and uneconomic to manage, and would better be managed in private ownership. The public lands will be exchanged for private lands lying within the boundaries of the Trueblood Wildlife Management Area that contain important raptor and raptor prey habitat, important waterfowl and upland game habitat, important recreation values, and riparian habitat along over a ½ mile stretch of the Snake River. The public interest will be well served by the completion of this exchange, as the consummation thereof will fulfill the Secretary's Fish and Wildlife 2000, Recreation 2000, and riparian management initiatives. The

exchange will be consummated on an equal value basis. An appraisal has shown the lands to be of equal value.

DATES: For a period of 45 days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Bureau of Land Management, Boise District, 3948 Development Avenue, Boise, Idaho 83750. Objections to this proposal will be reviewed by the State Director, who may sustain, modify, or vacate this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: John Sullivan, Bruneau Resource Area Realty Specialist at (208) 384–3338. The Environmental Assessment is available for review at the above address.

SUPPLEMENTARY INFORMATION: Publication of this notice in the Federal Register segregates the public lands from operation of the public land laws, except the exchange provisions of the Federal Land Policy and Management Act, and the mining laws, but not the mineral leasing laws. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

Excepting and Reserving to the United States: 1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

Subject To: 2. Those rights for electric powerline line purposes granted to Idaho Power Company, its successors or assigns, by Right-of-Way No. BL–054697, under the Act of March 4, 1911 (43 U.S.C. 961).

3. Those rights for irrigation canal purposes granted to the Snake River Irrigation District, its successors or assigns, by Right-of-Way No. IDI–03816, under the Act of March 3, 1891 (43 U.S.C. 946–951) as amended.

4. Those rights for buried telephone cable purposes granted to Gem State Utilities Corporation, its successors or assigns, by Right-of-Way No. IDI–16430, under the Act of October 21, 1976 (43 U.S.C. 1761).

Dated: January 4, 1993.

J. David Brunner,

District Manager.

[FR Doc. 93–682 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–GG–M

[CO–942–93–4730–12]

Colorado; Filing of Plats of Survey

December 18, 1992.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., December 18, 1992.

The plat (in three sheets) representing the dependent resurvey of portions of the Twelfth Auxiliary Guide Meridian West (east boundary), south and north boundaries, subdivisional lines, and certain claim lines, and the subdivision of certain sections, T. 2 N., R. 101 W., Sixth Principal Meridian, Colorado, Group No. 851, was accepted October 20, 1992.

The plat (in four sheets) representing the dependent resurvey of the north boundary, portions of the subdivisional lines, and certain claim lines, and the subdivision of certain sections, T. 2 N., R. 100 W., Sixth Principal Meridian, Colorado, Group No. 851, was accepted November 23, 1992.

The plat representing the dependent resurvey of a portion of certain mineral claims in section 23, T. 3 S., R. 73 W., Sixth Principal Meridian, Colorado, Group No. 1002, was accepted November 17, 1992.

These surveys were executed to meet certain administrative needs of this Bureau.

The plat representing the dependent resurvey of a portion of the Eleventh Standard Parallel North (south boundary, T. 45 N., R. 13 W.), portions of the south and west boundaries, and the subdivisional lines, the subdivision of certain sections, and the remonumentation of certain original corners, T. 44 N., R. 13 W., New Mexico Principal Meridian, Colorado, Group Nos. 449 and 937, was accepted October 29, 1992.

The plat (in two sheets) representing the dependent resurvey of portions of the subdivisional lines and Mineral Survey Numbers 20734 and 20797, and the survey of the east and west center line of section 18, T. 11 N., R. 79 W., Sixth Principal Meridian, Colorado, Group No. 870, was accepted November 23, 1992.

The plan representing the dependent resurvey of a portion of the Colorado-Wyoming State Boundary from the 113th to the 115th mile post and a portion of the subdivisional lines, and the subdivision of section 23 and 26 of Fractional T. 12 N., R. 79 W., Sixth Principal Meridian, Colorado, Group No. 870, was accepted November 23, 1992.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 16 and 17, T. 8 S., R. 74 W., Sixth Principal Meridian, Colorado, Group No. 940, was accepted November 13, 1992.

The plat representing the dependent resurvey of portions of the Base Line (south boundary), subdivisional lines, and certain tracts, and the subdivision of section 26, T. 1 N., R. 82 W., Sixth Principal Meridian, Colorado, Group No. 951, was accepted November 13, 1992.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

The plat representing the dependent resurvey of portions of the south and east boundaries, subdivisional lines, and the subdivision of certain sections, T. 34 N., R. 10 W. (South of the Ute Line), New Mexico Principal Meridian, Colorado, Group No. 903, was accepted December 1, 1992.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

The plat (in two sheets) representing the dependent resurvey of portions of the Ute Base Line (south boundary, T. 1 N., R. 2 W., Ute Meridian), the subdivisional lines, and the Colorado National Monument Boundary, the subdivision of sections 21 and 27, and the metes-and-bounds survey of National Park Service Land in sections 17, 21, and 27, Fractional T. 11 S., R. 101 W., Sixth Principal Meridian, Colorado, Group No. 987, was accepted November 13, 1992.

This survey was executed to meet certain administrative needs of the National Park Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado, 80215.

Homer L. Gilson,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 93–739 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–JB–M

[ID–943–4210–06; IDI–14542]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes that a 2769.39 acre withdrawal for Powersite

Classification No. 435, continue for an additional twenty years. The land is still needed for waterpower purposes. These lands will remain closed to surface entry, but have been and will remain open to mineral leasing and mining.

EFFECTIVE DATE: Comments should be received within 90 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, (208) 384–3166.

The Bureau of Land Management proposes that the existing land withdrawal made by the U.S. Geological Survey Order dated August 16, 1955, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, insofar as it affects the following described land:

Boise Meridian

T. 1 S., R. 2 W.,
Sec. 25, N½SW¼ and SW¼SE¼;
Sec. 28, lots 6 and 7;
Sec. 33, NE¼NE¼;
Sec. 34, SE¼NE¼ and NW¼NW¼.
T. 2 S., R. 1 E.,
Sec. 18, NW¼NE¼.
T. 3 S., R. 1 E.,
Sec. 34, E½NE¼.
T. 3 S., R. 2 E.,
Sec. 31, lots 2, 3 and 6.
T. 4 S., R. 2 E.,
Sec. 4, S½SW¼;
Sec. 5, lots 4 and 8 and SE¼SE¼;
Sec. 6, lots 2, 5 and 6;
Sec. 8, lots 1, 2 and 4;
Sec. 9, lots 1 to 8 inclusive;
Sec. 10, lots 3, 4, 7 and 8;
Sec. 26, lot 5.
T. 4 S., R. 3 E.,
Sec. 31, SE¼NE¼.
T. 5 S., R. 3 E.,
Sec. 9, lots 1 and 4.
T. 5 S., R. 8 E.,
Sec. 32, lot 1;
Sec. 33, lot 1 and SE¼SW¼.
T. 6 S., R. 8 E.,
Sec. 1, lots 10 and 11;
Sec. 2, lot 7;
Sec. 4, lots 4, 5, 8 and 9;
Sec. 5, lot 1;
Sec. 14 NW¼.
T. 5 S., R. 9 E.,
Sec. 26, lots 2 to 4 inclusive; sec. 27, NE¼SE¼;
Sec. 31, SE¼NW¼;
Sec. 32, lot 6;
Sec. 33, lots 2 to 8 inclusive;
Sec. 34, lots 3 and 4.
T. 5 S., R. 10 E.,
Sec. 21, lots 2 and 3;
Sec. 22, lot 10.
T. 6 S., R. 10 E.,
Sec. 6, lots 1 and 2.

The areas described aggregate 2769.39 acres in Ada, Elmore and Owyhee Counties.

The withdrawal is essential for protection of potential waterpower development. The existing withdrawal closes the described land to surface entry but not to mineral leasing and mining. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Dated: January 5, 1993.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 93–684 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–GG–M

Bureau of Reclamation

River Maintenance Program for the Rio Grande, NM

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability of draft supplement to the final environmental impact statement (Draft Supplement): DES–93–02.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a draft supplement to the 1977 final environmental impact statement on a reformulated river maintenance program within the Rio Grande floodway. The proposed maintenance program consists of 6 broadbased alternatives for river channel maintenance, based on 10 distinctive morphological reaches of the Rio Grande.

DATES: A 60-day public review period begins with the publication of this notice. Written comments on the Draft Supplement may be submitted within the 60-day review period (by March 15, 1993) to the Regional Director or Projects Manager at the addresses below.

ADDRESSES: Single copies of the Draft Supplement may be requested from Reclamation's offices at the addresses below.

Copies of the Draft Supplement are available for inspection at the following locations:

Regional Director, Bureau of Reclamation, Attention: UC–700, Federal Building, 125 South State Street, Salt Lake City UT 84138; telephone: (801) 524–5517.
Bureau of Reclamation, Denver Office Library, Denver Federal Center, 6th and Kipling, Building 67, room 167, Denver CO 80225; telephone: (303) 236–6963
Projects Manager, Bureau of Reclamation, Attention: ALB–150, 505 Marquette NW, Suite 1313, Albuquerque NM 87102–2162; telephone: (505) 766–1753
Bureau of Reclamation, Technical Liaison Division, U.S. Department of the Interior, 1849 C Streets NW., Washington DC 20240; telephone: (202) 343–4662
Middle Rio Grande Conservancy District, 193 Second Street SW., Albuquerque NM 87130; telephone: (505) 247–0234

Libraries

Albuquerque city libraries:
Main Library, 501 Copper Avenue NW.
Erna Ferguson, 3700 San Mateo Boulevard NE.
Ernie Pyle, 900 Girard Boulevard SE.
Esperanza, 5600 Esperanza Drive NW.
Juan Tabo, 3407 Juan Tabo Boulevard NE.
Lomas and Tramway, 908 Eastridge Drive NE.
Los Griegos, 1000 Griegos Road NW.
San Pedro, 5600 Trumbull Avenue SE.
South Valley, Bernalillo County, 3908 Isleta Boulevard SW.
Taylor Ranch, 5700 Bogart Street NW.
University of New Mexico Library, Albuquerque, New Mexico
New Mexico State University, Las Cruces, New Mexico

FOR FURTHER INFORMATION CONTACT: Mr. William E. Burleigh (Activity Manager, Albuquerque Projects Office), telephone: (505) 766–2518.

SUPPLEMENTARY INFORMATION: Under the reformulated river maintenance program, river channel maintenance will be designed and constructed based on the hydrologic characteristics of the Rio Grande and take into account the environmental values associated with each reach. Future mitigation measures will be addressed on a site-specific basis based on "best management practices."

Dated: December 10, 1992.

Kathy E. Gordon,

Deputy Assistant Commissioner Administration.

[FR Doc. 93–782 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–09–M

National Park Service

National Register of Historic Places; NHL Boundaries

January 4, 1993.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR part 65, the National Park Service notifies owners, public officials and other interested parties and provides them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, DC 20013–7127, Attention: Chief of Registration (Phone: 202–343–9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Boundaries established for: Chilkoot Trail and Dyea National Historic Landmark, Taiya River Valley, Alaska; designated a Landmark on June 16, 1978.

Beginning at Bench Mark "Lame" in T28S R59E, Cooper River Meridian (CRM), thence in a northerly direction along a line one-half mile east of the center of the Taiya River to a point on the U.S. Canadian Border one-half mile southeast of Monument 120 in T25S, R60E, CRM, thence northwest along the U.S.-Canadian border for a distance of one mile, thence in a southerly direction along a line one-half mile west of the center of the Taiya River to a point due west of Bench Mark "Lame," thence due east to Bench Mark "Lame." Where the Taiya River has more than one channel running side-by-side, the "center" of the river is the center of the easternmost channel for purposes of the eastern boundary line of this description and the "center" of the river is the center of the westernmost channel for purposes of the western boundary line of this description.

[FR Doc. 93–724 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–70–M

Little Bighorn National Monument Advisory Committee

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior is soliciting nominations to serve on the Little Bighorn National Monument Advisory Committee. Pursuant to Public Law 102–201, the purpose of the Committee is to advise the Secretary on matters pertaining to a memorial honoring the Indian participants at the Battle of the Little Bighorn.

DATES: All nominations should be submitted on or before February 12, 1993.

ADDRESSES: Nominations should be sent to: Victoria E. Barrios, Director, Boards and Commissions, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240. All nominations should be accompanied by complete biographical and professional information, and include home and business addresses and telephone numbers.

FOR FURTHER INFORMATION CONTACT: Bernard Fagan, National Park Service, U.S. Department of the Interior, 18th and C Streets, Washington, DC. A copy of the charter for this Committee is available upon request.

SUPPLEMENTARY INFORMATION: Pursuant to Public Law 102–201, the Secretary of the Interior will design, construct, and maintain a memorial at the Little Bighorn Battlefield National Monument to honor the Indian participants in the battle. Also pursuant to Public Law 102–201, the Secretary has established the Little Bighorn Battlefield National Monument Advisory Committee. The purpose of the Committee is to provide advice to the Secretary to ensure that the memorial is appropriate to the Monument, its resources and landscape; sensitive to the history being portrayed; and artistically commendable. Also, the Secretary will consult with the Committee on the selection of the site for the memorial and on a national design competition to select the design of the memorial.

Public Law 102–201 stipulates that the Committee shall be composed of 11 members appointed by the Secretary: 6 individuals representing Native American tribes who participated in the Battle of the Little Bighorn or who now reside in the area, 2 individuals who are nationally recognized artists, and 3 individuals knowledgeable in history, historic preservation, and landscape architecture. Through this notice, the Secretary is soliciting nominations for any of the appointments from interested organizations or individuals.

Manuel Lujan, Jr.,

Secretary of the Interior.

[FR Doc. 93–747 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–70–M

Grand Canyon National Park; Colorado River Running Services

SUMMARY: The National Park Service is seeking parties interested in applying for contracts to operate river running services for park visitors on the Colorado River within Grand Canyon National Park. Existing contracts are expiring. Eighteen separate contracts are to be awarded.

SUPPLEMENTAL INFORMATION: It is expected that within sixty (60) days the National Park Service will issue a Prospectus describing the terms and conditions that will apply to applicants for the above contracts. Parties interested in making such applications should contact Ms. Teresa Jackson, Division of Concession Program Management, Western Regional Office, (415) 744–3981 (fax telephone number (415) 744–3951) to place themselves on the mailing list for the Prospectus.

Dated: November 23, 1992.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–746 Filed 1–12–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

Certain Cutting Tools for Flexible Plastic Conduit and Components Thereof; Notice of Designation of Additional Commission Investigative Attorney

[Investigation No. 337–TA–344]

Notice is hereby given that, as of this date, Alesia M. Woodworth, Esq. and Gabrielle Siman, Esq. of the Office of Unfair Import Investigations are designated as the Commission investigative attorneys in the above-

cited investigation instead of Gabrielle Siman, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: January 6, 1993.

Lynn I. Levine,

Director, Office of Unfair Import Investigations.

[FR Doc. 93–753 Filed 1–12–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–314 through 317 (Final) and Investigations Nos. 731–TA–552 through 555 (Final)]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Brazil, France, Germany, and the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigations.

EFFECTIVE DATE: December 30, 1992.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION: On November 2, 1992, and November 13, 1992, respectively, the Commission instituted the subject investigations and established a schedule for their conduct (57 FR 54607, Nov. 19, 1992 and 57 FR 58220, Dec. 9, 1992). Subsequently, on December 28, 1992, the Department of Commerce advised the Commission it was extending the date for its final determinations in the investigations concerning France, Germany, and the United Kingdom from January 11, 1993 to January 19, 1993.[1] The Commission, therefore, is revising its schedule in the investigations to conform with Commerce's new schedule.

The Commission's new schedule for the investigations is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than January 19, 1993; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on January 22, 1993; the prehearing staff report will be placed in the nonpublic record on January 15, 1993; the deadline for filing prehearing briefs is January 26, 1993; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 2, 1993; and the deadline for filing posthearing briefs is February 10, 1993.

For further information concerning these investigations see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules.

Issued: January 7, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–756 Filed 1–12–93; 8:45 am]

BILLING CODE 7020–02–M

[1] Commerce is scheduled to make its final determinations in the investigations concerning Brazil by January 25, 1993.

[Investigation No. 337–TA–337]

Certain Integrated Circuit Telecommunication Chips and Products Containing Same, Including Dialing Apparatus; Notice of Commission Determination Not To Review an Initial Determination Finding a Respondent in Default

AGENCY: U.S. International Trade Commission

ACTION: Notice

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's initial determination (ID) in the above-captioned investigation finding respondent Kingtel Telecommunication Corp. ("Kingtel") in default, and that Kingtel has thereby waived its right to appear, to be served with documents, and to contest the allegations in issue in this investigation.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: On September 22, 1992, the presiding administrative law judge (ALJ) issued an order (Order No. 70) giving Kingtel until October 1, 1992, to show cause why it should not be found to be in default. Kingtel failed to respond to that order. On December 10, 1992, the ALJ issued an ID finding Kingtel to be in default and to have waived its right to appear, to be served with documents, and to contest the allegations in issue in this investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.53 of the Commission's Interim Rules of Practice and Procedure, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: January 7, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–755 Filed 1–12–93; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–341]

Certain Static Random Access Memories, Components Thereof, and Products Containing Same; Commission Determination not to Review an Initial Determination Finding a Respondent in Default

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation finding respondent Micro-Comp Industries ("Micro-Comp") in default, and that Micro-Comp has thereby waived its right to appear and to contest the allegations in issue in the investigation.

FOR FURTHER INFORMATION CONTACT: Matthew T. Bailey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3108.

SUPPLEMENTARY INFORMATION: On November 19, 1992, the ALJ issued an order (Order No. 1) giving Micro-Comp until December 1, 1992, to show cause why it should not be held in default. Micro-Comp did not respond to that order. On December 3, 1992, the ALJ

issued an ID (Order No. 3) finding Micro-Comp in default. In doing so, the ALJ found that Micro-Comp had waived its right to appear and to contest the allegations at issue in the investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and § 210.53 of the Commission's Interim Rules of Practices and Procedure, 19 CFR 210.53.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

Issued: January 6, 1993.

By order of the Commission.

Paul R. Bardos,

Acting Secretary.

[FR Doc. 93–754 Filed 1–12–93; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32207]

Albany Bridge Co., Inc.; Acquisition and Operation Exemption, South Carolina Central Railroad Co., Inc., d/b/a/ Georgia Great Southern Division

Albany Bridge Company, Inc. (ABC), A non-carrier, has filed a verified notice under 49 CFR part 1150 subpart D—Exempt Transactions to acquire and operate a railroad bridge and related track from South Carolina Central Railroad Company, Inc., d/b/a/ Georgia Great Southern Division (GGS). The railroad bridge (about 3470 feet in length) and related track are located between the point of switch at track chaining station 5473+20 and track chaining station 543+50 of GGS' mainline track in Albany, Dougherty County, GA. These rail properties are currently used by GGS to enter the rail yard of Gulf and Ohio Railways, Inc., d/b/a/ Atlantic & Gulf Railroad (A&GA), to interchange with A&GR. The exemption became effective December 22, 1992, and the parties expect to consummate the transaction on or after that date.[1]

As part of the agreement between the parties, GGS will retain a perpetual right to use the property to continue interchanging traffic with A&GR. In addition, CSX Transportation, Inc., currently has trackage rights over the GGS segment to be acquired by ABC. GGS will assign the trackage rights agreement to ABC when the transaction is consummated.

This proceeding is related to Finance Docket No. 32208, H. Peter Claussen and Linda C. Claussen—Continuance in Control Exemption—Albany Bridge Company, Inc., wherein H. Peter Claussen and Linda C. Claussen, noncarrier individuals, concurrently have filed a petition for exemption to continue to control ABC and three other rail carriers on ABC's becoming a carrier.[2]

Also concurrently filed, in Finance Docket No. 32222, Gulf and Ohio Railways d/b/a/ Atlantic & Gulf Railroad—Operation Exemption—Albany Bridge Company, Inc., is a verified notice wherein A&GR seeks an exemption to operate the involved rail properties on behalf of ABC.[3] ABC will retain a residual common carrier obligation to provide service over the line.

Any comments must be filed with the Commission and served on Adam M. Mycyk, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the exemption's effectiveness.

Decided: January 7, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–734 Filed 1–12–93; 8:45 am]

BILLING CODE 7035–01–M

[1] The parties indicate in the verified notice that they expect to consummate the transaction "on or about" December 22, 1992. Since it is unclear what is meant by "about", the parties are reminded that consummation may not occur before the exemption's effective date.

[2] The Claussens now control through stock ownership three other rail common carriers: Gulf and Ohio Railways; Wiregrass Central Railroad Company; and H & S Railroad Company. Although the Claussens will own all of the outstanding stock of ABC, they have placed this stock in an irrevocable voting trust with an independent voting trustee pending Commission action on the petition filed in Finance Docket No. 32208.

[3] Commission action in the operation exemption proceeding will be deferred until the Commission acts on the continuance in control petition in Finance Docket No. 32208.

[Finance Docket No. 32228]

The Atchison, Topeka and Santa Fe Railway Co.; Trackage Rights Exemption; Trinidad Railway, Inc.

Trinidad Railway, Inc., has agreed to grant trackage rights to The Atchison, Topeka and Santa Fe Railway Company over approximately 29.6 miles of rail line between milepost 0.0 at Jansen, CO, and milepost 29.6 at Stonewall, CO. The trackage rights were to become effective on December 30, 1992.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Michael A. Smith, The Atchison, Topeka and Santa Fe Railway Company, 1700 E. Golf Road, Schaumburg, IL 60173.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

Dated: January 7, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–731 Filed 1–12–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32210]

Exemption; Grand Truck Corp.; Continuance in Control; Grand Trunk Western Railroad, Inc.

Grand Trunk Corporation (GT), has filed a verified notice of exemption for continuance in control of Grand Trunk Western Railroad, Inc. (GTW II), upon GTW II's becoming a carrier.

GTW II, a noncarrier, has filed concurrently a verified notice of exemption in Finance Docket No. 32209, Grand Trunk Western Railroad, Inc.—Acquisition Exemption—Grand Trunk Western Railroad Company, to acquire all of Grand Trunk Western Railroad Company's (GTW I) property, assets and liabilities with the exception of GTW's 100 percent ownership interest in Domestic Three Leasing Corp. and its stock interest in Belt Railway Company of Chicago. GTW II will assume all obligations and agreements to which GTW I is currently a party. The parties planned to

consummate the transaction on or about December 31, 1992.

GTW I and GTW II are wholly owned by GT which in turn is owned by the Canadian National Railway Company (CN). CN also owns St. Clair Tunnel Company. These transactions are among a series of transactions relating to the relocation of an existing railroad tunnel under the St. Clair River, between Sarnia, Ontario and Port Houron, MI.[1] According to GT, GTW II's acquisition of GTW I's operating assets and liabilities is intended to help facilitate the financing of the tunnel.

This is a transaction within a corporate family of the type specifically exempted from prior approval under 49 CFR 1180.2(d)(3). The parties indicate that the continuance in control by GT of GTW II will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Charles A. Spitulnik, Hopkins & Sutter, 888 16th Street, NW., suite 700, Washington, DC 20006.

Decided: January 6, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93-737 Filed 1-12-93; 8:45 am]

BILLING CODE 7035-01-M

[1] Notices of exemption were served on August 4, 1992, in: Finance Docket No. 32115, Grand Trunk Western Railroad Company—Trackage Rights Exemption—St. Clair Tunnel Company; Finance Docket No. 32116, St. Chair Tunnel Company—Acquisition Exemption—Grand Trunk Western Railroad Company; and Finance Docket No. 32117, Canadian National Railway Company—Continuance in Control Exemption—St. Clair Tunnel Company. Notices of exemption were served on December 10, 1992, in: Finance Docket No. 32196, St. Clair Tunnel Company—Acquisition Exemption—Canadian National Railway Company; and Finance Docket No. 32197, Canadian National Railway Company—Trackage Rights Exemption—St. Clair Tunnel Company.

[Finance Docket No. 32209]

Grand Trunk Western Railroad, Inc.; Acquisition Exemption; Grand Trunk Western Railroad Co.

Grand Trunk Western Railroad, Inc. (GTW II), a noncarrier, has filed a notice of exemption: (1) To acquire approximately 834 miles of rail line owned by the Grand Trunk Western Railroad Company (GWT I) in the States of Michigan, Ohio, and Indiana; [1] and (2) to acquire approximately 40 miles of incidental trackage rights over four rail lines in the States of Michigan, Ohio, and Indiana. Additionally, GTW II will acquire all of GTW I's property, assets and liabilities except GTW I's 100 percent ownership interest in Domestic Three Leasing Corp. and its stock interest in Belt Railway Company of Chicago. GTW II will also acquire all obligations and agreements to which GTW I is currently a party.

The rail line being acquired consists of 14 subdivisions described as follows:

(1) *South Bend Subdivision* between milepost 4.90 in Chicago, IL, and milepost 178.6 in Battle Creek, MI;

(2) *Flint Subdivision* between milepost 178.6 in Battle Creek, MI, and milepost 335.9 in Port Huron, MI, and *Flint Subdivision* (old main line) between milepost 272.3 and milepost 273.8, and between milepost 269.98 and milepost 263.73, all in Flint, MI;

(3) *Kalamazoo Subdivision* between milepost 0.00 in Pavilion Township, MI, and milepost 9.22 in Kalamazoo, MI;

(4) *Holly Subdivision* between milepost 0.3 in Detroit, MI, and milepost 67.0 in Durand, MI, and *Holly Subdivision* (Pontiac Belt Line) between milepost 0.0, and milepost 2.5 in Pontiac, MI;

(5) *Grand Rapids Subdivision* between milepost 67.0 and milepost 69.17 in Durand, MI;

(6) *Shoreline Subdivision* between milepost 0.0 in Toledo, OH, and milepost 54.8 in Detroit, MI;

(7) *Mount Clemens Subdivision* between milepost 4.6 in Detroit, MI, and milepost 59.89 in Port Huron, MI;

(8) *Romeo Subdivision* between milepost 38.5 in Pontiac, MI, and milepost 0.0 in Richmond, MI;

(9) *Jackson Subdivision* between milepost 35.3 and milepost 38.4 in Pontiac, MI;

(10) *Cass City Subdivision* between milepost 0.0 in Pontiac, MI, and milepost 8.01 in Orion Township, MI;

(11) *Dearborn Subdivision* between milepost 0.0 in Flat Rock, MI, and milepost 13.64 in Dearborn, MI;

(12) *River Subdivision* between milepost 1.7 in Ecorse, MI, and milepost 17.2 in Flat Rock, MI;

(13) *Flat Rock Subdivision* between milepost 17.2 in Flat Rock, MI, and milepost 200.50 in Springfield, OH; and

(14) *Springfield Subdivision* between milepost 200.50 and milepost 202.70 in Springfield, OH.

The incidental trackage rights that GW II will acquire as part of the transaction will be over the following lines:

(1) Consolidated Rail Corporatien's line between milepost 99.60 and milepost 100.94 in South Bend, IN;

(2) Norfolk Southern's line between milepost 46.8 and milepost 50.2 in Detroit, MI;

(3) St. Clair Tunnel Company's line between milepost 40.5 in Richmond, MI, and milepost 55.6 in Port Huron, MI; and

(4) CSX Transportation, Inc.'s line between milepost 107.3 in Leipsic, OH, and milepost 128.3 in Lima, OH.

The parties planned to consummate the transaction on or about December 31, 1992. Upon consummation of the transaction, GTW II will become a class I carrier.

This transaction is related to a notice of exemption filed concurrently in Finance Docket No. 32210, Grand Truck Corporation—Continuance in Control Exemption—Grand Truck Western Railroad, Inc., for GT's continuance in control of GTW II when GTW II becomes a carrier upon consummation of the transaction described in this notice. These transactions are also related to a series of transactions involving the relocation of the existing railroad tunnel which crosses under the St. Clair River between Sarnia, Ontario and Port Huron, MI.[2]

[1] GTW I and GTW II are wholly owned subsidiaries of Grand Trunk Corporation (GT) which in turn is owned by the Canadian National Railway Company (CN). CN also owns the St. Clair Tunnel Company.

[2] Notice of exemption were published in the Federal Register and served on August 4, 1992, in: Finance Docket No. 32115, Grand Truck Western Railroad Company—Trackage Rights Exemption—St. Clair Tunnel Company, for GTW I's acquisition of trackage rights from St. Clair Tunnel Company (SCTC) over 16.4 miles of rail line between Port Huron, MI and Richmond, MI; Finance Docket No. 32116, St. Clair Tunnel Company—Acquisition Exemption—Grand Trunk Western Railroad Company, for SCTC's acquisition of the 16.4 miles of rail lines set forth above from GTW I; and Finance Docket No. 32117, Canadian National Railway—Continuance in Control Exemption—St. Clair Tunnel Company, for CN's continuance in control of SCTC upon SCTC becoming a carrier. Additionally, notices of exemption were published in the Federal Register and served on December 10, 1992, in: Finance Docket No. 32196, St. Clair Tunnel Company—Acquisition Exemption—Canadian National Railway Company, for SCTC's acquisition of CN's St. Clair Subdivision; and

Continued

Any comments must be filed with the Commission and served on: Charles A. Spitulnik, Hopkins & Sutter, 888 16th Street, NW., suite 700, Washington, DC 20006.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 6, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–738 Filed 1–12–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32217]

Morris H. Kulmer, Kern W. Schumacher, Troy W. Schumacher, and Michael J. Van Wagenen; Continuance in Control Exemption; Tulare Valley Railroad Co.

Morris H. Kulmer, Kern W. Schumacher, Troy W. Schumacher, and Michael J. Van Wagenen (applicants) have filed a notice of exemption to continue in control of Tulare Valley Railroad Company (Tulare) upon the latter's becoming a carrier. Tulare, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32215, Tulare Valley Railroad Company—Acquisition and Operation Exemption—The Atchison, Topeka & Santa Fe Railway Company, to: (1) Acquire, by purchase or lease, and to operate approximately 158 miles of rail lines owned by The Atchison, Topeka & Santa Fe Railway Company (ATSF); and (2) acquire incidental trackage rights over lines of Southern Pacific Transportation Company (SP) and ATSF in the State of California. Tulare expected the transaction to be consummated on or about December 21, 1992.

Applicants also control T and P Railroad, Inc. (T&P), which is a class III rail carrier operating in the State of Kansas, and SF & LR Railway, Inc. (SF&LR), which was expected to become a carrier upon consummation on or about December 22, 1992, of a transaction subject to the proceeding in Docket No. AB–3 (Sub-No. 101X) involving the acquisition of an 18.23-mile line in Texas. Applicants indicate that: (1) The rail lines of T&P, SF&LR, and Tulare will not connect with each other; (2) the transactions are not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to the use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in New York Dock Ry.—Control—Brooklyn Eastern Dist., 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Adam M. Mycyk, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797.

Decided: January 7, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–735 Filed 1–12–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32215]

Tulare Valley Railroad Co.; Acquisition and Operation Exemption; The Atchison, Topeka & Santa Fe Railway Co.

Tulare Valley Railroad Company (Tulare), a noncarrier, has filed a verified notice of exemption: (1) To acquire, by purchase or lease, and to operate approximately 158 miles of lines of railroad owned by The Atchison, Topeka & Santa Fe Railway Company (ATSF) in the State of California; and (2) to acquire incidental trackage rights over one line segment of Southern Pacific Transportation Company (SP) and three line segments of ATSF in the State of California. Tulare will become a class III rail carrier. The transaction was to be consummated on or about December 21, 1991.[1]

The rail lines involved in the acquisition, by purchase or lease, consist of nine branch and spur lines, which are described below. Lines to be purchased include: (1) ATSF's undivided 50 percent interest in the Arvin branch line between milepost 316 + 4092 feet at Magunden, CA, and milepost 333 + 4400 feet at Arvin, CA;[2] (2) ATSF's undivided 50 percent interest in the Oil City branch line between milepost 308 + 477 feet at Oil Junction, CA, and milepost 312 + 2902 feet at Maltha, CA;[3] (3) the Porterville branch line between milepost 71 + 2969.2 feet at Ducor, CA, and milepost 19 at Cutler, CA; (4) the Porterville branch line between milepost 111 + 4029 feet and milepost 111 + 383 feet, both near Oil Junction, CA; (5) the Visalia branch line between milepost 1 + 290 feet at Corcoran, CA, and milepost 67 at Calwa, CA; (6) the Cameo spur line between milepost 0 + 160 feet at Fresno, CA, and milepost 6 near Fresno, CA; (7) the Orange Cove spur line between milepost 20.6 at Wyeth, CA, and milepost 11 + 1126.5 feet at Orange Cove, CA; and (8) ATSF's rights-of-way between milepost 11 + 1126.5 feet at Orange Cove, CA, and milepost 0 + 2936 feet at Minkler, CA, and between milepost 19 + 2930 feet at Minkler, CA, and milepost 6 near Fresno, CA. The following line will be leased: The Landco spur line between the Porterville Subdivision milepost 111 + 4029 feet near Oil Junction, CA, and milepost 113 + 3717 feet at or near Bakersfield, CA. The initial term of the lease will be for 5 years and renewable for consecutive 5-year terms.

The incidental trackage rights that Tulare will acquire as part of the proposed transaction will be over the following ATSF lines: (1) The Visalia Subdivision line between milepost 1 + 290 feet east of the Corcoran yard and milepost 951 + 200 feet and milepost 951 + 2600 feet near the southwestern end of the Visalia Subdivision; (2) the Visalia Subdivision line between milepost 67 east of the Calwa Yard and the Cameo spur line (Stockton Subdivision) milepost 0 + 160 feet; and (3) the Bakersfield Yard between the Porterville Subdivision milepost 113 + 3717 feet west of the Bakersfield Yard and the Bakersfield Subdivision milespost 885 + 931 feet east of the Bakersfield Yard. Tulare will also acquire trackage rights, by assignment from ATSF, over SP's line between Oil Junction, CA (SP milepost 308.6—ATSF

Finance Docket No. 32197, Canadian National Railway Company—Trackage Rights Exemption—St. Clair Tunnel Company, whereby SCTC granted trackage rights back to CN over the St. Clair Subdivision.

[1] This proceeding is related to Finance Docket No. 32217, Morris H. Kulmer, et al.—Continuance in Control Exemption—Tulare Valley Railroad Company, wherein Morris H. Kulmer and others have concurrently filed a verified notice of exemption to continue in control of Tulare when it becomes a carrier upon consummation of the transaction described in this notice.

[2] SP owns the other undivided 50 percent interest.

[3] SP owns the other undivided 50 percent interest.

Porterville Subdivision milepost 110.7) and Ducor, CA (SP milepost 287.1—ATSF Porterville Subdivision milepost 71.9).

Tulare indicates that some of the involved lines have marginal traffic densities and that, if any of the acquired properties cannot be operated profitably on a long-term basis, it will seek Commission authority to abandon such segments.

Any comments must be filed with the Commission and served on: Adam M. Mycyk, Weiner, Brodsky, Sidman & Kider, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: January 7, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–732 Filed 1–12–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; Cable Television Laboratories, Inc.

Notice is hereby given that, on October 8, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Cable Televivion Laboratories, Inc. ("CableLabs") and Com21, Inc. ("Com21") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission diclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notification was filed for the purpose of involving the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are CableLabs, Boulder, CO; and Com21, Atherton, CA.

The area of planned activity is cooperation in the exchange of information about and development of interface concepts between storage devices, Asynchronous Tranfer Mode ("ATM") systems and cable system networks, including the functions, operation and architecture of ATM systems and cooperation in the conduct of laboratory and field tests of such interface concepts.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–685 Filed 1–12–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984; "Hybrid Superconducting Digital Systems"

Notice is hereby given that, on November 16, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 et. seq. ("the Act"), Conductus has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties, and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties and its general areas of planned activities are given below.

The parties to the venture are Conductus, Sunnyvale, CA; TRW, Redondo Beach, CA; Hewlett-Packard, Palo Alto, CA; Stanford University, Palo Alto, CA; and University of California, Berkeley, Berkeley, CA. The parties entered into a collaborative research agreement on November 9, 1992, to create significant advances in technology for electronic measurement.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–686 Filed 1–12–93; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984; Spectra Diode Laboratories, Inc. and Xerox Corp.

Notice is hereby given that, on December 2, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Spectra Diode Laboratories, Inc. and Xerox Corporation have filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture are Spectra Diode Laboratories, San Jose, CA; and Xerox Corporation, Stamford, CT. Stanford University, Palo Alto, CA, will be a subcontractor under the agreement. The objective of the venture is to develop a full monolithic approach to the development of a multi-wavelength addressable laser diode array where the lasers are spaced on 10 um centers and operate independently at predetermined wavelengths ranging from 430 nm to 1.1 um.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–687 Filed 1–12–93; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of December 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,931; Thiokol Corp., Ordnance Operations, Marshall, TX

TA–W–27,878; Douglas Pacific Veneer, Inc., Bandon, OR

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–27,869; Monessen, Inc., Monessen, PA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,920; Bell Helicopter, Fort Worth, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,945; Santa Fe Drilling Co., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,932; D & H Manufacturers, Inc., Muskegon, MI

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–27,963; Dresser Industries, Security Div., Eunice, LA

U.S. imports of oil and gas field machinery were negligible in 1991 and in January-July 1992.

TA–W–27,462E; Transco Gas Pipe Line Corp., Houston, TX

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–27,366; Forest Oil Corp., Lafayette, LA

The investigation revealed that criterion (2) and criterion (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have not contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Affirmative Determinations

TA–W–27,959; Pennzoil Sulphur Co., Pecos, TX

A certification was issued covering all workers separated on or after October 26, 1992.

TA–W–27,960; Pennzoil Sulphur Co., Galveston, TX

A certification was issued covering all workers separated on or after October 26, 1992.

TA–W–27,462A; Transco Exploration & Production Co., Headquartered in Houston, TX and Operating at Various Locations in The Following States: B; CO, C; LA, D; TX

A certification was issued covering all workers engaged in the production of exploration and production of crude oil and natural gas who became totally or partially separated on or after November 28, 1992.

TA–W–27,461; Transco Energy Corp., Aviation Dept., Houston, TX

A certification was issued covering all workers engaged in the production of exploration and production of crude oil and natural gas who became totally or partially separated on or after June 8, 1991.

TA–W–27,462; Transco Energy Corp., Administration, Houston, TX

A certification was issued covering all workers engaged in support for the exploration and production of crude oil and natural gas who became totally or partially separated on or after June 8, 1991

TA–W–27,902; Dana Fashions, Inc., Brent, AL

A certification was issued covering all workers separated on or after September 28, 1991.

TA–W–27,977; Exxon Co., USA Corporate Headquarters Staff, Located Throughtout Houston, TX

A certification was issued covering all workers separated on or after August 13, 1991.

TA–W–27,975; Charles Komar & Sons Seamprufe Corp., McAlester, OK

A certification was issued covering all workers separated on or after October 29, 1991.

TA–W–27,966; Frontier Processing Co., Littleton, CO

A certification was issued covering all workers separated on or after October 28, 1991.

TA–W–27,924; Leakesville Manufacturing, Inc., Leakesville, MS

A certification was issued covering all workers separated on or after October 14, 1991.

TA–W–27,914; Grace Energy Corp., Dallas, TX

A certification was issued covering all workers separated on or after October 7, 1991.

TA–W–27,788; Paper Converting Machine Co., Green Bay, WI

A certification was issued covering all workers separated on or after January 1, 1992.

TA–W–27,956; Oil Technology Service, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 23, 1991.

TA–W–28,013; Amoco Corp., Information Technology Dept., Houston Westlake Office and Houston Data Center, Houston, TX

A certification was issued covering all workers separated on or after October 30, 1991.

TA–W–27,840; American Standard, Inc., Louisville, KY

A certification was issued covering all workers separated on or after October 1, 1992.

I hereby certify that the aforementioned determinations were issued during the month of December 1992. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: January 4, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–751 Filed 1–12–93; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitiions 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 January 25, 1993.

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 January 25, 1993.

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 28th day of December 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
Thumb Plastics-McAllen, Inc (Wkrs)	Traverse City, MI	12/28/92	12/17/92	28,143	Injection molded plastics.
Lucas Aerospace Power Transmission (Wkrs)	Utica, NY	12/28/92	12/18/92	28,144	Industrial couplings.
Fleck, Inc (Wkrs)	Biloxi, MS	12/28/92	12/14/92	28,145	Wire harnesses.
Siemens Nixdorf (Wkrs)	Burlington, MA	12/28/92	11/11/92	28,146	Engineering development.
Midland Southwest Div/MA Hanna Co (Wkrs)	Midland, TX	12/28/92	12/16/92	28,147	Oil and gas.
T-Bar Div/Data Switch (Wkrs)	Milford, CT	12/28/92	12/18/92	28,148	Mainframe computer component.
Deeville Blouse Co (ILGWU)	Danielsville, PA	12/28/92	12/18/92	28,149	Blouses and skirts.
Deeville Cutting (ILGWU)	Slatington, PA	12/28/92	12/18/92	28,150	Blouses and skirts.
Martech Int. (Wkrs)	Broussard, LA	12/28/92	12/15/92	28,151	Marine services.
Coil Coating (USWA)	Warren, OH	12/28/92	12/18/92	28,152	Coil coating for steel industry.
Coltec Industries, Inc (Wkrs)	Pittsburgh, PA	12/28/92	12/16/92	28,153	Stainless and alloy steel products.
M/A- Com, Anzac Div. (Wkrs)	Bangor, ME	12/28/92	12/08/92	28,154	Integrated circuits.
Ramco Oil and Gas, Inc (Wkrs)	Tulsa, OK	12/28/92	12/03/92	28,155	Oil and gas.
Fireye, Inc (Wkrs)	Derry, NH	12/28/92	12/16/92	28,156	Sensing products.
Oglebay Norton Company (Wkrs)	Cleveland, OH	12/28/92	12/16/92	28,157	Transports bulk raw materials.
Northrop Corp (Wkrs)	Norwood, MA	12/28/92	12/03/92	28,158	Electromagnetic components.
Coalinga Corp (Co)	Lafayette, LA	12/28/92	12/17/92	28,159	Oil and gas production.
Coalinga Corp (Co)	Los Angeles, CA	12/28/92	12/17/92	28,160	Oil and gas production.

[FR Doc. 93–749 Filed 1–12–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,742, TA–W–27,742A, and TA–W–27,742B

Timco Services, Inc., et al., Lafayette, LA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 21, 1992, applicable to all workers of Timco Services, Inc., and Timco-TMS, Inc., both of Lafayette, Louisiana. The certification notice was published in the **Federal Register** on November 3, 1992 (57 FR 49721).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firms. The investigation findings show that the claimants' wages for both Timco Services, Inc., and Timco-TMS, Inc., are being reported under Southcoast Services, Inc., Lafayette, Louisiana, the parent firm.

Accordingly, the Department is amending the certification to properly reflect the correct worker groups.

The intent of the Department's certification is to include all workers of Timco Services, Inc., Timco-TMS, Inc., and Southcoast Services, Inc., Lafayette, Louisiana irrespective to which account their unemployment insurance (UI) taxes are paid.

The amended notice applicable to TA–W–27,742 is hereby published as follows:

"All workers of Timco Services, Inc., Lafayette, Louisiana, Timco-TMS, Inc., Lafayette, Louisiana a/k/a/ Southcoast Services, Inc., Lafayette, Louisiana who became totally or partially separated from employment on or after August 17, 1991, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC this December 31, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–750 Filed 1–12–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–27,705]

UNOCAL Corp., Lafayette, LA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at UNOCAL Corporation, Lafayette, Louisiana. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–27,705; UNOCAL Corporation
Lafayette, Louisiana (December 31, 1992)

Signed at Washington, DC this 31st day of December, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–748 Filed 1–12–93; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL CREDIT UNION ADMINISTRATION

Public Information Collection Requirement Submitted to OMB for Review

Dated: January 4, 1993.

The National Credit Union Administration has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submissions may be obtained by calling the NCUA Clearance Officer listed. Comments regarding

information collections should be addressed to the OMB reviewer listed and to the NCUA Clearance Officer, NCUA, Administrative Office, room 7344, 1776 G Street, Washington, DC 20456.

National Credit Union Administration

OMB Number: 3133–
Form Number: None.
Type of Review: New collection.
Title: Written Investment Policies, Recording Credit Decision, Documenting Investment in Certain Securities.
Description: To ensure that federal credit unions make safe investments, the rule requires that they establish written investment policies and review them annually, record credit decisions regarding deposits in certain financial institutions, and document analyses of certain securities purchased to reduce interest rate risk.
Respondents: Federal credit unions.
Estimated Number of Respondents: 8,075.
Estimated Burden Hours Per Response: 6 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 48,450.

OMB Number: 3133–
Form Number: NCUA 10603.
Type of Review: Review of new collection.
Title: Survey Nonmember Accounts.
Description: NCUA intends to revise rules and regulations and operating procedures dealing with nonmember deposit and/or accounts in certain federal credit unions. The information obtained in the survey will be helpful in the decision making process.
Estimated Number of Respondents: 37.
Estimated Burden Hours Per Response: 40 minutes.
Frequency of Response: One time collection.
Estimated Total Reporting Burden: 24.7 hours.

OMB Number: 3133–0011
Form Number: NCUA 9600.
Type of Review: Reinstatement of a previously approved collection for which approval has expired.
Title: Application for Insurance of Accounts State-chartered Credit Unions.
Description: The Federal Credit Union Act and NCUA regulations require that federal credit unions convert to state charters and desiring to maintain federal insurance must reapply for insurance. All state-chartered credit unions desiring federal insurance must apply as well.
Respondents: Federal and state-chartered credit unions.
Estimated Number of Respondents: 123.
Estimated Burden Hours per Response: 307.5 hours.
Frequency of Response: One time.
Estimated Total Reporting Burden: 369.

OMB Number: 3133–0024
Form Number: 4302 through 4310.
Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
Title: 12 CFR part 708, subpart A, Mergers of Federally Insured Credit Unions.
Description: 12 CFR part 708, subpart A, provides merger procedures for credit union where at least one of the credit unions involved is federally insured. This subpart, although issued as part of a NPRM, is substantively the same as existing part 708.
Estimated Number of Respondents: 380.
Estimated Burden Hours per Response: 3.30 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 1,254.

OMB Number: 3133–0035.
Form Number: None.
Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
Title: Trustees and Custodians of Pension Plans.
Description: A federal credit union acting as trustee or custodian of a Keogh Plan or individual retirement account must maintain individual records for each member/participant showing all transactions in detail.
Respondents: Federal credit unions.
Estimated Number of Respondents: 3,968.
Estimated Burden Hours per Response: 50 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 198,400.

OMB Number: 3133–0052.
Form Number: None.
Type of Review: Reinstatement of a previously approved collection for which approval has expired.
Title: Federal Credit Union Membership.
Description: Federal Credit Unions.
Estimated Number of Respondents: 1,997.
Estimated Burden Hours per Response: 1 hour.
Frequency of Response: On Occasion.
Estimated Total Reporting Burden: 1,997.

OMB Number: 3133–0058.
Form Number: None.
Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
Title: Credit Committee Records Article IX, section 3 and 4 of the Federal Credit Union Bylaws.
Description. Record keeping requirement, not collection of data. Credit unions must maintain records of the actions they take regarding approval/disapproval of loans.
Respondents: Federal credit unions.
Estimated Number of Respondents: 7,989.
Estimated Burden Hours per Response: 8 hour.
Frequency of Response: Monthly.
Estimated Total Reporting Burden: 63,912.

OMB Number: 3133–0064.
Form Number: NCUA 7000–A, 7001, 7002, 7003, and 7004.
Type of Review: Reinstatement of a previously approved collection for which approval has expired.
Title: Request for Funds—CLF.
Description: Forms used by each borrower requesting a loan from the Central Liquidity Facility.
Respondents: Federally insured credit unions.
Estimated Number of Respondents: 25.
Estimated Burden Hours per Response: 1 hour.
Frequency of Response: Only when borrowing.
Estimated Total Reporting Burden: 26.

OMB Number: 3133–0080.
Form Number: None.
Type of Review: Extension of the expiration date of a currently approved collection without any change in substance or in the method of collection.
Title: Special Meetings of Federal Credit Union (FCU) Board.
Description: This section of the Federal Credit Union Bylaws requires that the credit union president call a special meeting of the board of directors upon receipt of a written request to do so signed by a majority of the directors.
Respondents: Federal credit unions.
Estimated Number of Respondents: 799
Estimated Burden Hours per Response: 0.4 hours.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 320.

OMB Number: 3133–0117.
Form Number: None.
Type of Review: Reinstatement of a previously approved collection for which approval has expired.
Title: Designation of Low Income Status.

Description: Credit unions serving predominantly low-income members, as defined in § 701.32 must receive a low-income designation from the NCUA before accepting nonmember deposits other than credit union and public deposits.

Respondents: Federally insured credit unions.

Estimated Number of Respondents: 15.

Estimated Burden Hours per Response: 15 hours.

Frequency of Response: One time.

Estimated Total Reporting Burden: 225.

OMB Number: 3133–0118.

Form Number: NCUA 8023.

Type of Review: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Title: Requirements for An Outside Audit; Requirements for Insurance.

Description: The rule prescribes the regulatory requirement for an outside, independent audit of any federally insured credit union by a certified public accountant under certain specified conditions. The rule was added to reflect applicable provisions of Public Law 101–73, the Federal Financial Institutions, Reform, Recovery, and Enforcement Act of 1989.

Estimated Number of Respondents: 634.

Estimated Burden Hours per Response: 160 hours.

Frequency of Response: Reporting only required if noncompliance with existing regulations.

Estimated Total Reporting Burden: 101,440.

Clearance Officer: Wilmer A. Theard or Patricia Slye, (202) 682–9700, National Credit Union Administration, room 7344, 1776 G Street, NW., Washington, DC 20456.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Becky Baker,

Secretary of the NCUA Board.

[FR Doc. 93–689 Filed 1–12–93; 8:45 am]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–31695; File No. SR–NASD–92–48]

January 6, 1993.

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Establishment of Requirements for Real-Time Reporting of Members' Over-The-Counter Transactions in Certain Equity Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on November 24, 1992, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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 NASD hereby files this proposed rule change, pursuant to section 19(b)(1) of the Act and Rule 19b–4 thereunder, to establish requirements for real-time trade reporting of members' over-the-counter transactions in equity securities that are not currently reportable on a real-time basis. Securities affected by this proposal are those for which members now submit, on a daily basis, their aggregate volume data and price ranges pursuant to Schedule H to the NASD By-Laws. The proposed reporting requirements are patterned after those established for Nasdaq listed securities (i.e., Parts XII and XIII of Schedule D to the NASD By-Laws). (New language is italicized while deleted language is bracketed.)

Part XIV—Reporting Transactions in Over-the-Counter Equity Securities

This Part has been adopted pursuant to Article VII of the Corporation's By-Laws and sets forth the trade reporting requirements applicable to members' transactions in equity securities for which real-time trade reporting is not otherwise required (hereinafter referred to as "OTC Equity Securities"). Members shall utilize the Automated Confirmation Transaction Service ("Act") for trade reporting in OTC Equity Securities.

Section 1—Definitions

(a) Terms used in this Part shall have the same meaning as those defined in the Association's By-Laws and Rules of Fair Practice unless otherwise specified herein.

(b) "OTC Equity Security" means any equity security not classified as a "designated security", for purposes of Parts XII and XIII of Schedule D to the Corporation's By-Laws. This term also includes certain exchange-listed securities that do not otherwise qualify for real-time trade reporting because they are not "eligible securities" as defined by section 1(d) of Schedule G to the NASD By-Laws. The term "OTC Equity Security" shall not include "restricted securities," as defined by Rule 144(a)(3) under the Securities Act of 1933, nor any securities designated in the PORTAL Market℠.

(c) "Automated Confirmation Transaction Service" or ACT is the service that, among other things, accommodates reporting and dissemination of last sale reports in OTC Equity Securities. Regarding those OTC Equity Securities that are not eligible for clearance and settlement through the facilities of the National Securities Clearing Corporation, the ACT comparison function will not be available. However, ACT will support the entry and dissemination of last sale data on such securities.

(d) "OTC Market Maker" means a member of the Association that holds itself out as a market maker by entering proprietary quotations or indications of interest for a particular OTC Equity Security in any inter-dealer quotation system, including any system that the Securities and Exchange Commission has qualified pursuant to section 17B of the Securities Exchange Act of 1934. A member is an OTC Market Maker only in those OTC Equity Securities in which it displays market making interest via an inter-dealer quotation system.

(e) "Non-Market Maker" means a member of the Association that is not an OTC Market Maker with respect to a particular OTC Equity Security.

Section 2—Transaction Reporting

(a) When and How Transactions Are Reported

(1) OTC Market Makers shall, within 90 seconds after execution, transmit through ACT last sale reports of transactions in OTC Equity Securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late.

(2) Non-Market Makers shall, within 90 seconds after execution, transmit

through ACT or the ACT service desk (if qualified pursuant to Part IX of Schedule D to the By-Laws), or if ACT is unavailable due to system or transmission failure, by telephone to the Market Operations Department in New York City, last sale reports of transactions in OTC Equity Securities executed during normal market hours. Transactions not reported within 90 seconds after execution shall be designated as late.

(3) Last sale reports of transactions in OTC Equity Securities executed between 9 a.m. and 9:30 a.m. Eastern Time shall be transmitted through ACT within 90 seconds after execution and shall be designated as ".T" trades to denote their execution outside normal market hours. Last sale reports of transactions in OTC Equity Securities between the hours of 4 p.m. and 5:15 p.m. Eastern Time shall also be transmitted through ACT within 90 seconds after execution; trades executed and reported after 4 p.m. Eastern Time shall be designated as ".T" to denote their execution outside normal market hours.

(4) All members shall report weekly to the Market Operations Department in New York City, on a form designated by the Board of Governors, last sale reports of transactions in OTC Equity Securities that are executed outside the hours of 9 a.m. and 5:15 p.m. Eastern Time.

(5) A pattern or practice of late reporting without exceptional circumstances may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Article III, Section 1 of the Rules of Fair Practice.

(b) Which Party Reports Transaction

(1) In transactions between two OTC Market Makers, only the member representing the sell side shall report.

(2) In transactions between an OTC Market Maker and a Non-Market Maker, only the OTC Market Maker shall report.

(3) In transactions between two Non-Market Makers, only the member representing the sell side shall report.

(4) In transactions between a member and a customer, the member shall report.

(c) Information To Be Reported

Each last sale report shall contain the following information:

(1) Symbol of the OTC Equity Security;

(2) Number of shares;

(3) Price of the transaction as required by paragraph (d) below; and

(4) A symbol indicating whether the transaction is a buy, sell, or cross.

(d) Procedures for Reporting Price and Volume

Members that are required to report pursuant to paragraph (b) above shall transmit last sale reports for all purchases and sales in OTC Equity Securities in the following manner:

(1) For agency transactions, report the number of shares and the price excluding the commission charged.

(2) For dual agency tranactions, report the number of shares only once, and report the price excluding the commission charged.

(3) For principal transactions, except as provided below, report each purchase and sale transaction separately and report the number of shares and the price. For principal transactions that are executed at a price which includes a mark-up, mark-down or service charge, the price reported shall exclude the mark-up, mark-down or service charge. Such reported price shall be reasonably related to the prevailing market, taking into consideration all relevant circumstances including, but not limited to, market conditions with respect to the OTC Equity Security, the number of shares involved in the transaction, the published bids and offers with size displayed in any inter-dealer quotation system at the time of the execution (including the reporting firm's own quotation), the cost of execution, and the expenses involved in clearing the transaction.

Exception: A "riskless" principal transaction in which a Non-Market Maker, after having received from a customer an order to buy, purchases the security as principal from another member or customer to satisfy the order to buy or, after receiving from a customer an order to sell, sells the security as principal to another member or customer to satisfy the order to sell, shall be reported as one transaction in the same manner as an agency transaction, excluding the mark-up or mark-down.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported:

(1) Transactions which are part of a primary distribution by an issuer, a registered secondary distribution (other than "shelf distributions"), or of an unregistered secondary distribution;

(2) Transactions made in reliance on section 4(2) of the Securities Act of 1933;

(3) Transactions where the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the security.

(4) Purchases or sales of securities effected upon the exercise of an option pursuant to the terms thereof, or the exercise of any other right to acquire securities at a pre-established consideration unrelated to the current market.

Interpretation of the Board of Governors

The Corporation seeks to emphasize the obligations of members to report transactions in OTC Equity Securities within 90 seconds after execution. All transactions in OTC Equity Securities not reported within 90 seconds after execution shall be reported as late, and the Corporation routinely monitors members' compliance with the 90 second requirement. If the Corporation finds a pattern or practice of unexcused late reporting, that is, repeated reports of executions in OTC Equity Securities after 90 seconds without reasonable justification or exceptional circumstances, the member may be found to be in violation of Article III, Section 1 of the Corporation's Rules of Fair Practice. Exceptional circumstances will be determined on a case-by-case basis and may include conditions such as extreme volatility in an OTC Equity Security, or in the market as a whole. Timely reporting of all transactions in OTC Equity Securities is necessary and appropriate for the fair and orderly operation of the marketplace, and to ensure the collection of adequate information for surveillance purposes; the Corporation will, therefore, view noncompliance as a rule violation.

Part [XIV] XV—Mutual Fund Quotation Program

* * * * *

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 NASD included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD 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

Through the instant filing, the NASD is seeking the SEC's approval of a rule

package that would extend real-time transaction reporting to NASD members' transactions in equity securities that are not subject to real-time reporting under existing provisions of the NASD rules.[1] The universe of securities affected by this rule proposal is the same universe for which members now submit aggregate volume and price range data at the end of each business day pursuant to Section 2 of Schedule H to the NASD By-Laws.[2] Since the adoption of Schedule H in 1988, the NASD has collected Schedule H data solely for regulatory purposes and has not disseminated such information via the Nasdaq network or the networks of commercial vendors.

Under this proposal, the NASD will capture trade-by-trade information—on a real-time basis within 90 seconds of execution—for OTC Equity Securities by means of members' entries into the Automated Confirmation Transaction Service ("ACT"). The data elements comprising a transaction report would be the same as those now required for transaction reports in Nasdaq and exchange-listed securities reported through ACT. Implementation of the proposed reporting rules will enable the NASD to capture sufficient trade details to construct a transaction audit trail reflecting members' daily trading in OTC Equity Securities. This development will materially enhance the NASD's regulatory database and permit the use of automated surveillance techniques comparable to those utilized for the Nasdaq Stock Market. Moreover, the collection of transactional data through ACT will allow the NASD to phase out Schedule H price/volume reporting for OTC Equity Securities.[3] Assuming Commission approval, the proposed reporting rules will result in consistent trade reporting and audit trail requirements across all market segments for which the NASD has primary self-regulatory responsibility. The proposed reporting requirements would be put into effect no later than mid-August of 1993, which corresponds to the target date for completing the associated system changes.

The instant proposal is also intended to cause the OTC Bulletin Board service ("OTCBB") to meet the requirements of section 17B of the Act, which was added to the statute by the Securities Enforcement Remedies and Penny Stock Reform Act of 1990. This section requires the Commission to facilitate the establishment of one or more automated quotation systems (under the auspices of a self-regulatory organization) for the entry and display of dealers' quotations in "penny stocks" (as now defined by Rule 3a51–1 under the Act). Section 17B(b)(2) specifies the characteristics required of such systems. With the addition of facilities for collecting, processing, and disseminating last sale information on OTC Equity Securities, the NASD believes that the OTCBB will satisfy those minimum statutory requirements. The Commission has designated the OTCBB, on an interim basis, as a Qualifying Electronic Quotation System for purposes of certain penny stock disclosure rules adopted under section 15(g) of the Act.[4]

In defining members' reporting obligations under the instant proposal, the term "OTC Market Maker" encompasses only those firms that hold themselves out as market makers in some inter-dealer system, including a system qualified by the Commission under Section 17B of the Act. This status attaches on a security-by-security basis. A firm's status as a Non-Market Maker is similarly determined on a security-by-security basis. Basically, a Non-Market Maker incurs the obligation to report a transaction in an OTC Equity Security (within 90 seconds of execution) only when the contra party is not an OTC Market Maker in the subject security. This approach is consistent with the reporting obligations already established for the Nasdaq Stock Market. Hence, the proposed reporting rules are equally comprehensive in their application.

The NASD recognizes that the market structure reforms of section 17B were directed at penny stocks and that the universe of OTC Equity Securities is broader. Nonetheless, the NASD proposes to collect and disseminate transactional information real-time, on all domestic OTC Equity Securities, regardless of whether they are quoted in the OTCBB. This last sale information will be made available through customary vendor channels as well as the NASD's communications network. Finally, last sale information input by member firms on the subset of OTC Equity Securities consisting of foreign and ADR issues will be collected and used exclusively for regulatory purposes without real-time dissemination. This limitation is believed appropriate because, at the Commission's request, OTCBB dealers in such securities may only update their quotes twice daily, and are therefore precluded from entering firm quotations into the OTCBB for such issues. The NASD will not publish trade reports on these securities in order to avoid any reconsideration of the present exemption from registration pursuant to Rule 12g3-2(b) under the Act.

The NASD believes that the proposed rule change is consistent with sections 11A(a)(1), 15A(b)(6) and 17B of the Act. Section 11A(a)(1) sets forth the Congressional findings and policy goals respecting operational enhancements to the securities markets. Basically the Congress found that new data processing and communications techniques should be applied to improve the efficiency of market operations, broaden the distribution of market information, enhance the ability of investors to monitor the quality of executions received, and foster competition among market participants. Section 15A(b)(6) requires, *inter alia*, that the NASD's rules be designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and facilitate transactions in securities. Finally, section 17B contains Congressional findings and directives respecting the collection and distribution of quotation and last sale information on certain low-priced equity securities (classified as "penny stocks" pursuant to Rule 3a51-1 under the Act) that are neither Nasdaq nor exchange-listed.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

[1] See Parts XII and XIII of Schedule D and Schedule G to the NASD By-Laws, CCH NASD Manual, ¶¶1865, 1867A, and 1917.

[2] Currently, the requirement to report price/volume data pursuant to Schedule H to the NASD By-Laws extends to members' activity in "Non-Nasdaq Securities." Paragraph (a) of Schedule H Defines that term to mean any equity security that is neither included in the Nasdaq System nor traded on any national securities exchange. Paragraph (a) also extends Schedule H reporting to over-the-counter transactions in exchange-listed securities that do not qualify for real-time trade reporting because they are not "eligible securities," as defined in section 1(d) of Schedule G to the NASD By-Laws. The term "OTC Equity Security", as used in this rule proposal, would encompass this limited group of exchange-listed equity securities as well as those equities that are neither Nasdaq or exchange-listed.

[3] This phase out will be accomplished through a subsequent Rule 19b–4 filing by the NASD.

[4] Letter from Margaret H. McFarland, Deputy Secretary, SEC, to Richard Ketchum, Executive Vice President, NASD, dated December 30, 1992.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. In addition, the Commission specifically solicits comment on whether the OTCBB should be considered an automated quotation system for penny stocks within the meaning of section 17B of the Exchange Act, upon the incorporation of last sale reporting capability.

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 submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by February 3, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12)

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–752 Filed 1–12–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19205; No. 811–3308]

American General Fixed-Income Accumulation Fund, Inc.; Application for an Order

January 4, 1993

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: American General Fixed-Income Accumulation Fund, Inc. (the "Applicant").

RELEVANT 1940 ACT SECTION: Order requested under section 8(f) of the 1940 Act.

SUMMARY OF APPLICATION: The Applicant 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 November 12, 1992, and amended and restated on December 8, 1992 and December 24, 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 the 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 January 29, 1993, and should be accompanied by proof of service on the Applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the 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.

APPLICANT: American General Fixed-Income Accumulation Fund, Inc., 2800 Post Oak Boulevard, Houston, Texas 77056.

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. The Applicant was organized as a corporation on October 20, 1981, under the laws of Maryland. The Applicant remains in existence and in good standing in Maryland.

2. On November 2, 1981, the Applicant filed a Notification of Registration as an open-end investment company on Form N–8A, and its initial registration statement on Form N–1 under the 1940 Act and under the Securities Act of 1933 (File No. 2–74664). Five hundred million (500,000,000) shares of common stock, all of one class, $0.01 par value per share ("Common Stock"), were registered at that time. Applicant's registration statement became effective on January 4, 1982, and the initial public offering commenced on January 28, 1992.

3. On July 24, 1991, the Applicant's Board of Directors ("Board") authorized the Applicant to join in the filing of an Application ("Application") for: (i) An Order under section 26(b) of the 1940 Act approving the substitution of shares of American General Series Portfolio Company ("AGSPC") and American Capital Life Investment Trust ("LIT") for shares of the Applicant, and (ii) an Order under section 17(b) or, alternatively, section 6(c), of the 1940 Act exempting the Applicant from sections 17(a)(1) and 17(a)(2) of the 1940 Act to the extent necessary to permit certain purchase and sale transactions between affiliates in connection with the substitution. On September 20, 1991, the Commission issued an order granting the Application (Investment Co. Act Rel. No. 18326).

4. On September 12, 1991, the Board authorized the dissolution of Applicant. No vote of Applicant's securityholders was required by law, and none was sought. No proxy materials were distributed to Applicant's securityholders.

5. On September 30, 1991, the Applicant had 3,036,781 shares of Common Stock outstanding, for an aggregate net asset value of $19,066,039, or $6.28 per share.

6. Effective September 30, 1991, the Applicant transferred securities valued at $7,109,211.22 and $194,645.13 in cash to LIT, and securities valued at $11,250,410.27, $351,219.87 in cash and $160,476.25 in accrued interest to AGSPC, on behalf of its securityholders in satisfaction of redemption requests made by such securityholders in connection with the substitution. In addition, $76.26 in cash was paid to American Capital Companies Shareholder Services, Inc., the transfer agent, in redemption of shares held in an audit account.

7. The Applicant bore all expenses it incurred in connection with carrying out its part of the substitution. These

expenses consisted of legal fees, printing, postage/shipping and filing fees. The Applicant, in turn, allocated its expenses to its investment adviser, American Capital Asset Management, Inc.

8. Applicant has transferred all of its portfolio securities and other assets to its securityholders.

9. Applicant has no securityholders to whom distributions to complete liquidation have not been made. The Applicant has no securityholders, assets, debts or other liabilities outstanding.

10. The Applicant has not, within the last 18 months, for any reason, transferred any of its assets to a separate trust, the beneficiaries of which were Applicant's securityholders.

11. Applicant is not a party to any litigation or administrative proceeding.

12. Applicant is not engaged, nor does it propose to engage, in any business activities other than those necessary to wind up its affairs.

13. As of the date of filing of the Application, the Applicant was current in all filing required to be made under the 1940 Act, including Form N–SAR.

14. The Applicant will file Articles of Dissolution in accordance with Maryland law after receipt of an order of the Commission declaring that the Applicant is no longer an investment company under the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–694 Filed 1–12–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: U.S. Small Business Administration's Applicant Survey

SBA Form No.: SBA Form 1843

Frequency: Quarterly and Annually

Description of Respondents: Individuals seeking employment

Annual Responses: 7,500

Burden: 1,275

Dated: January 8, 1993.

Calvin Jenkins,

Director, Office of Administrative Services.

[FR Doc. 93–781 Filed 1–12–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD–91–224]

Extension of Certification of Alternative Advisory Group In Lieu of a Council

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: On December 17, 1992, the Coast Guard extended for six months the certification of the Prince William Sound Regional Citizens' Advisory Council as an alternative voluntary advisory group pursuant to the Oil Pollution Act of 1990. The certification has been extended through June 30, 1992 to allow the group to use guidelines recently finalized by the Coast Guard in the group's next request for annual certification.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Jackson, Project Manager, Marine Environmental Protection Division, (G–MEP–3), (202) 267–0500, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION: Congress passed the Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990, 33 U.S.C. 2732 (the Act), to foster the long-term partnership among industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals and tankers.

Paragraph (o) of the Act (33 U.S.C. 2732(o)) permits an alternative voluntary advisory group to represent the communities and interests in the vicinity of the oil terminal facilities in Prince William Sound in lieu of a council of the type specified in 33 U.S.C. 2732(d), if certain conditions are met. The Act requires that the group enter into a contract to ensure annual funding and receive annual certification by the President that it fosters the general goals and purposes of the Act and is broadly representative of the community and interests in the vicinity of the terminal facilities. Accordingly, in 1991, the President granted certification to the Prince William Sound Regional Citizens' Advisory Council.

The authority to certify alternative advisory groups was subsequently delegated to the Commandant of the Coast Guard, and redelegated to the Chief, Office of Marine Safety, Security and Environmental Protection. The Coast Guard recertified the Prince William Sound Regional Citizens' Advisory Council as an alternative voluntary advisory group in 1992 (57 FR 14440). At that time the Coast Guard advised alternative voluntary advisory groups that guidelines would be issued to assist them in the annual recertification process. Because the guidelines for recertification will not be available before its current certification expires, the Coast Guard has extended the certification of Prince William Sound Regional Citizens' Advisory Council.

Extension of Certification

By letter dated December 17, 1992, the Chief, Office of Marine Safety, Security, and Environmental Protection extended, through June 30, 1993, the certification for the Prince William Sound Regional Citizens' Advisory Council to act as an alternative voluntary advisory group under the provisions of 33 U.S.C. 2732(o).

Issued on: January 6, 1993.

R.C. North,

Captain, U.S. Coast Guard Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92–793 Filed 1–12–92; 8:45 am]

BILLING CODE 4910–14–M

[CGD 92-078]

Discontinuance of Coast Guard Medium Frequency (MF) Morse Radiotelegraphy Services

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent.

SUMMARY: The United States Coast Guard intends to discontinue watchkeeping on the distress frequency 500 kHz at all of its Communication Stations and cutters, and cease all Morse Code services in the medium frequency radiotelegraphy band effective August 1, 1993.

FOR FURTHER INFORMATION CONTACT: LCDR Frank Irr, Telecommunications Operations Division (G-TTO), Office of Command, Control and Communications, U.S. Coast Guard, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-1348, telefax (202) 267-4662, or telex 892427 (COASTGUARD WASH). Normal office hours are between 7 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION: Morse radiotelegraphy was first used to save lives at sea in 1899. In 1914, after the sinking of the TITANIC, the first International Convention for the Safety of Life at Sea (SOLAS) was adopted, requiring certain ships to maintain a continuous Morse radiotelegraphy listening watch to ensure that calls from a ship in distress would be received. Coast stations had similar requirements to maintain a continuous listening watch during their hours of service. This maritime radio distress system was originally developed as a ship-to-ship alerting system, but slowly evolved into a ship-to-shore alerting system as radio performance improved and shore-based rescue coordination centers were created. Use of Morse telegraphy as the primary international distress and calling system for ships at sea has remained relatively unchanged for almost 100 years.

The Global Maritime Distress and Safety System (GMDSS) amendments to the SOLAS Convention were adopted in 1988. This system is more efficient and provides the mariner with options for initiating or relaying distress alerts, and passing and receiving maritime safety information. Options now available in the United States include Inmarsat satellite, radio telex, MF/HF single sideband, VHF radiotelephone, and satellite emergency position indicating radiobeacons (EPIRBs) for distress alerts and telecommunications; and Inmarsat SafetyNET, Navtex and HF Navtex for maritime safety information broadcasts. The SOLAS Convention requires that ships install Navtex equipment and satellite EPIRBs by August 1, 1993.

Navtex broadcasts include the same notices to mariners, weather, search and rescue and fixed fishing gear location products that have been provided by United States MF Morse broadcasts. Distress and other calls to any U.S. Coast Guard Communication Station can also be made on any of the following HF single sideband radiotelephone channels: 424 (4134 kHz), 601 (6200 kHz), 816 (8240 kHz), 1205 (12242 kHz).

The Coast Guard believes that the above options are sufficient to ensure that adequate distress and safety communication capabilities are available. Therefore, effective August 1, 1993, the Coast Guard will cease all medium frequency Morse radiotelegraphy services.

D.E. Ciancaglini,

Rear Admiral, U.S. Coast Guard, Chief, Office of Command, Control and Communications.

[FR Doc. 93-791 Filed 1-12-93; 8:45 am]

BILLING CODE 4910-14-M

[CGD2-93-01]

Second Coast Guard District Industry Day

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

DISCUSSION OF NOTICE: On 18 March 1993, the Commander, Second Coast Guard District will sponsor an Industry Day program to provide an open exchange of information, ideas, and opinions on matters of mutual interest or concern to the inland marine community and the Coast Guard. Industry Day activities will be held at the Henry VIII Hotel, 4690 North Lindbergh, St. Louis, Missouri as follows:

Wednesday, 17 March

5-7 p.m. Registration for early arrivals.

Thursday, 18 March

7:30 a.m.—Registration continues.
8:30 a.m.—General Session: Opening comments-Selected Presentations.
10 a.m.—Panel Discussions: Three separate small group panels focusing on Towing Industry, Shoreside Facilities, and Small Passenger Vessel Industry.
12 p.m.—Banquet-style luncheon.
1:30 p.m.—Panel Discussions continue.
4:30 p.m.—Industry Day concludes.

Advance registration and payment of the $24.00 conference fee is required. The fee includes the luncheon and refreshments. Registration forms or additional information on the Industry Day activities and events scheduled by other groups to coincide with Industry Day may be obtained from one of the officers named below. Written recommendations for agenda discussion topics are encouraged and should be mailed directly to one of the officers named below. Registration forms and fees should be mailed directly to the Henry VIII Hotel, Attn: Reservations, c/o Amelia Koncki, 4690 N. Lindbergh, St. Louis, Missouri 63044 and must be received by March 15, 1993.

FOR FURTHER INFORMATION CONTACT: Commander Jonathan S. Glantz or Lieutenant Charles L. McAllister, Commander (mpb), Second Coast Guard District, 1222 Spruce Street, room 2.102G, St. Louis, Missouri 63103-2832. The telephone number is: (314) 539-2655.

Dated: December 29, 1992.

Norman T. Saunders,

Rear Admiral (Lower Half), United States Coast Guard, Commander, Second Coast Guard District.

[FR Doc. 93-789 Filed 1-12-93; 8:45 am]

BILLING CODE 4910-14-M

Federal Transit Administration

FTA Sections 3 and 9 Grant Obligations

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act, 1993, Public Law 102-338, signed into law by President George Bush on October 6, 1992, contains a provision requiring the Federal Transit Administration (FTA) to publish an announcement in the **Federal Register** every 30 days of grants obligated pursuant to sections 3 and 9 of the Federal Transit Act, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant. This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Janet Lynn Sahaj, Chief, Resource Management and State Programs Division, Office of Capital and Formula Assistance, Department of Transportation, Federal Transit Administration, Office of Grants Management, 400 Seventh Street, SW., room 9305, Washington, DC 20590, (202) 366-2053.

SUPPLEMENTARY INFORMATION: The section 3 program provides capital assistance to eligible recipients in three categories: Fixed guideway modernization, construction of new fixed guideway systems and extensions, and bus purchases and construction of bus related facilities. The section 9 program apportions funds on a formula basis to provide capital and operating assistance in urbanized areas. Section 9 grants reported may include flexible funds transferred from the Federal Highway Administration to the FTA for use in transit projects in urbanized areas. These flexible funds are authorized under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) to be used for highway or transit purposes. Pursuant to the statute FTA reports the following grant information.

SECTION 3 GRANTS

Transit property	Grant No.	Grant amount	Obligation date
Port Authority of Allegheny County, Pittsburgh, PA	PA-03-0227-00	$13,200,000	10/29/92
Michigan Department of Transportation, Michigan	MI-01-0128-00	9,675,000	11/02/92
Bi-State Development Agency, St. Louis, MO-IL	MO-03-0027-04	39,303,000	11/18/92
City of Tucson, Tucson, AZ	AZ-03-0018-00	3,254,316	12/28/92
San Francisco Bay Area Rapid Transit District, San Francisco-Oakland, CA	CA-03-0384-00	12,600,000	12/22/92
Metropolitan Dade Transit Agency, Miami-Hialeah, FL	FL-03-0131-00	7,250,000	12/08/92
State of Hawaii, Kauai, Hawaii	HI-03-0016-00	2,000,000	12/22/92
Des Moines Metropolitan Transit Authority, Des Moines, IA	IA-03-0069-00	80,000	12/22/92
City of Detroit Department of Transportation, Detroit, MI	MI-03-0120-01	2,415,850	12/07/92
City of Minneapolis—Office of City Coordinator, Minneapolis-St. Paul, MN	MN-03-0045-00	8,000,000	12/07/92
New Jersey Transit Corporation, New York, NY—Northeastern, NJ	NJ-03-0094-00	21,000,000	12/09/92
Rhode Island Department of Transportation, Providence-Pawtucket, RI-MA	RI-03-0016-00	3,312,000	12/29/92

SECTION 9 GRANTS

Transit property	Grant No.	Grant amount	Obligation date
Gary Public Transportation Corporation, Chicago, IL—Northwestern IN	IN-90-X171-00	$2,876,211	10/30/92
Transit Authority of River City, Louisville, KY-IN	KY-90-X040-01	56,445	10/30/92
Dallas Area Rapid Transit, Dallas-Ft. Worth, TX	TX-90-X248-00	19,834,000	10/01/92
City of Waco, Waco, TX	TX-90-X260-00	1,663,270	10/21/92
City of Phoenix, Phoenix, AZ	AZ-90-X030-00	12,127,534	11/05/92
City of Phoenix, Phoenix, AZ	AZ-90-X031-00	535,588	11/05/92
City of Phoenix, Phoenix, AZ	AZ-90-X033-00	5,700,000	11/05/92
Kalamazoo Metro Transit, Kalamazoo, MI	MI-90-X157-01	169,056	11/30/92
Municipality of Anchorage, Anchorage, AK	AK-90-X010-00	761,428	12/28/92
City of Tucson, Tucson, AZ	AZ-90-X034-00	4,607,418	12/28/92
City of Modesto, Modesto, CA	CA-90-X482-00	1,293,056	12/22/92
City of Lompoc, Lompoc, CA	CA-90-X507-00	161,832	12/22/92
San Diego Association of Governments, San Diego, CA	CA-90-X521-00	900,000	12/21/92
Sunline Transit Agency, Palm Springs, CA	CA-90-X522-00	1,081,642	12/21/92
City of Pueblo, Pueblo, CO	CO-90-X071-00	1,474,585	12/28/92
Mesa County, Grand Junction, CO	CO-90-X072-00	284,820	12/28/92
Connecticut Department of Transportation, Connecticut	CT-90-X213-00	11,445,980	12/24/92
Connecticut Department of Transportation, Connecticut	CT-90-X214-00	4,454,000	12/29/92
Greater Hartford Transit District, Hartford-Middletown, CT	CT-90-X215-00	1,675,800	12/29/92
Connecticut Department of Transportation, Connecticut	CT-90-X216-00	484,817	12/29/92
Milford Transit District, Bridgeport-Milford, CT	CT-90-X217-00	75,000	12/29/92
East Volusia County—East Volusia Transportation Authority, Daytona Beach, FL	FL-90-X198-00	1,112,147	12/21/92
Broward Co Bd of Co Commissioners—Broward Co Mass Transit Division, Ft. Lauderdale-Hollywood-Pompano Bch, FL	FL-90-X199-00	7,220,544	12/21/92
Sarasota County Transportation Authority, Sarasota-Bradenton, FL	FL-90-X207-00	2,000,000	12/21/92
Panama City Metropolitan Planning Organization, Panama City, FL	FL-90-X212-00	179,680	12/21/92
City of Tallahassee—Tallahassee Transit Authority, Tallahassee, FL	FL-90-X213-00	797,600	12/21/92
City of New Smyrna Beach—Smyrna Transit System, Daytona Beach, FL	FL-90-X214-00	195,809	12/21/92
Cedar Rapids Transit Department, Cedar Rapids, IA	IA-90-X139-00	1,026,926	12/18/92
Keyline Bus System, Dubuque, IA-IL	IA-90-X140-00	364,226	12/23/92
City of Sioux City, Sioux City, IA-NE-SD	IA-90-X145-00	571,429	12/23/92
Greater Lafayette Public Transportation Corporation, Lafayette-West Lafayette, IN	IN-90-X172-00	848,435	12/18/92
City of Kokomo, Indiana, Kokomo, IN	IN-90-X173-00	303,376	12/18/92
Evansville Urban Transit Study, Evansville, IN-KY	IN-90-X174-00	1,505,454	12/18/92
Fort Wayne Public Transportation Corp., Fort Wayne, IN	IN-90-X175-00	1,148,827	12/18/92
Indianapolis Public Transportation Corporation, Indianapolis, IN	IN-90-X177-00	3,391,900	12/18/92
Johnson County Transit, Kansas City, KS-MO	KS-90-X056-00	295,319	12/23/92
Jefferson Parish, New Orleans, LA	LA-90-X138-00	2,340,000	12/22/92
City of Baton Rouge, Baton Rouge, LA	LA-90-X139-00	1,743,077	12/22/92
Berkshire County Regional Planning Commission, Pittsfield, MA	MA-90-X144-00	20,000	12/29/92
Greater Attleboro-Taunton Regional Transit Authority, Taunton, MA	MA-90-X145-00	1,123,963	12/29/92
Southeastern Regional Transit Authority, New Bedford, MA	MA-90-X146-00	1,863,503	12/29/92
Worcester Regional Transit Authority, Worcester, MA-CT	MA-90-X148-00	2,468,150	12/29/92
Merrimack Valley Regional Transit Authority, Lawrence-Haverhill, MA-NH	MA-90-X150-00	4,385,875	12/29/92
Cape Ann Transportation Authority, Boston, MA	MA-90-X153-00	75,000	12/29/92
Greater Portland Transit District, Portland, ME	ME-90-X064-00	401,020	12/29/92
Suburban Mobility Authority for Regional Transportation, Detroit, MI	MI-90-X150-01	2,174,978	12/09/92
Grand Rapids Area Transit Authority, Grand Rapids, MI	MI-90-X164-00	1,530,723	12/18/92
Twin Cities Area Transportation Authority, Benton Harbor, MI	MI-90-X165-00	404,139	12/18/92
City of Moorhead, Fargo-Moorhead, ND-MN	MN-90-X063-00	250,996	12/28/92
City of Springfield City Utilities, Springfield, MO	MO-90-X079-00	815,000	12/16/92

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Obligation date
Bi-State Development Agency, St. Louis, MO–IL	MO–90–X087–00	9,958,709	12/23/92
Kansas City Area Transportation Authority, Kansas City, MO–KS	MO–90–X088–00	4,451,011	12/28/92
City of Hattiesburg—Planning & Community Development, Hattiesburg, MS	MS–90–X044–00	238,095	12/21/92
City of Durham, Durham, NC	NC–90–X139–01	649,869	12/21/92
City of Asheville, Asheville, NC	NC–90–X147–00	702,641	12/21/92
City of Raleigh, Raleigh, NC	NC–90–X148–00	2,130,373	12/21/92
Town of Chapel Hill, Durham, NC	NC–90–X149–00	1,016,999	12/21/92
City of Bismarck, Bismarck, ND	ND–90–X028–00	344,792	12/28/92
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Rochester, NH–ME	NH–90–X035–00	2,674	12/29/92
New Jersey Transit Corporation, New York, NY—Northeastern NJ	NJ–90–X035–00	30,000,000	12/23/92
New Jersey Transit Corporation, New York, NY—Northeastern NJ	NJ–90–X036–00	4,000,000	12/22/92
Regional Transportation Commission of Clark County, Las Vegas, NV	NV–90–X018–01	1,728,036	12/28/92
Regional Transportation Commission of Washoe County, Reno, NV	NV–90–X019–00	1,686,986	12/28/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY–90–X233–00	4,000,000	12/23/92
Dutchess County, Poughkeepsie, NY	NY–90–X236–00	796,400	12/23/92
New York Metropolitan Transportation Authority, New York, NY—Northeastern NJ	NY–90–X237–01	50,000,000	12/23/92
New York Metropolitan Transportation Authority, New York, NY—Northeastern NJ	NY–90–X239–00	93,726,964	12/16/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY–90–X243–00	492,000	12/28/92
Utica Transit Authority, Utica-Rome, NY	NY–90–X248–00	472,089	12/24/92
Saratoga County Planning Board, Albany-Schenectady-Troy, NY	NY–90–X249–00	1,048,000	12/23/92
Greater Glens Falls Transit System, Glen Falls, NY	NY–90–X250–00	302,638	12/28/92
Niagara Frontier Transportation Authority, Buffalo-Niagara Falls, NY	NY–90–X251–00	7,394,347	12/28/92
Canton Regional Transit Authority, Canton, OH	OH–90–X173–00	1,089,091	12/18/92
Portage Area Regional Transportation Authority, Akron, OH	OH–90–X177–00	253,901	12/23/92
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH–90–X179–00	13,446,720	12/18/92
Metropolitan Tulsa Transit Authority, Tulsa, OK	OK–90–X042–00	2,092,493	12/22/92
Rogue Valley Transportation District, Medford, OR	OR–90–X042–01	111,419	12/28/92
Cumberland-Dauphin-Harrisburg Transit Authority, Harrisburg, PA	PA–90–X241–01	1,117,403	12/21/92
City of Sharon, Sharon, PA–OH	PA–90–X243–00	286,864	12/24/92
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA–NJ	PA–90–X246–00	54,662,198	12/16/92
Commonwealth of Puerto Rico—Department of Transp. and Public Works, San Juan, PR	PR–90–X011–08	1,600,000	12/28/92
Municipality of Manati, Vega Baja-Manati, PR	PR–90–X066–01	592,000	12/21/92
Metropolitan Bus Authority, San Juan, PR	PR–90–X072–00	7,251,519	12/21/92
Municipality of Manati, Vega Baja-Manati, PR	PR–90–X073–00	440,000	12/21/92
Rhode Island Department of Transportation, Providence-Pawtucket, RI–MA	RI–90–X021–00	5,654,349	12/29/92
City of Rapid City, Rapid City, SD	SD–90–X021–00	443,756	12/28/92
City of Sioux Falls, Sioux Falls, SD	SD–90–X022–00	741,032	12/28/92
City of Knoxville, Knoxville, TN	TN–90–X106–00	1,484,640	12/21/92
City of San Angelo, San Angelo, TX	TX–90–X257–00	564,990	12/22/92
City of Galveston, Galveston, TX	TX–90–X258–00	819,600	12/22/92
City of Plano, Dallas-Ft. Worth, TX	TX–90–X262–00	13,000	12/22/92
City of Beaumont, Beaumont, TX	TX–90–X263–00	836,431	12/22/92
City of Amarillo, Amarillo, TX	TX–90–X264–00	1,090,833	12/22/92
Corpus Christi Regional Transit Authority, Corpus Christi, TX	TX–90–X265–00	2,309,844	12/22/92
Peninsula Transportation District Commission, Newport News-Hampton, VA	VA–90–X095–01	1,956,195	12/22/92
City of Charlottesville, Charlottesville, VA	VA–90–X104–00	525,524	12/18/92
Snohomish County Transportation Authority, Seattle, WA	WA–90–X138–00	300,000	12/22/92

Issued on: January 8, 1993.

Brian W. Clymer,

Administrator.

[FR Doc. 93–763 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–57–M

National Highway Traffic Safety Administration

[Docket No. 92–54; Notice 2]

Determination that Nonconforming 1986 BMW 316 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1986 BMW 316 passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1986 BMW 316 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1986 GMW 325), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that

(I) the motor vehicle is * * * substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 [of the Act], and of the same model year * * * as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards * * *

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment

period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas (Registered Importer R–90–005) petitioned NHTSA to determine whether 1986 BMW 316 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on October 7, 1992 (57 FR 46236) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #25 is the vehicle eligibility number assigned to vehicles admissible under this notice of final determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1986 BMW 316 is substantially similar to a 1986 BMW 325 originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: January 7, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–765 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 92–47; Notice 2]

Transportation Manufacturing Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition of the Transportation Manufacturing Corporation (TMC) of Roswell, New Mexico, 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 its noncompliance with Federal Motor Vehicle Safety Standard No. 106, "Brake Hoses," is inconsequential as it related to motor vehicle safety.

Notice of receipt of the petition was published on September 11, 1992, and an opportunity afforded for comment (57 FR 41804).

Paragraph S7.3.7 of Standard No. 106 specifies that, "[e]xcept for hose reinforced by wire, an air brake hose shall withstand a tensile force of 8 pounds per inch of length before separation of adjacent layers."

TMC was notified by Dana Corporation (the manufacturer of this hose) of a potential cover adhesion noncompliance involving its H33806 hose which TMC used for air brake applications on buses manufactured at Roswell, New Mexico. Some of the subject hoses do not comply with the adhesion requirements of FMVSS No. 106, "Brake Hoses."

TMC supports its petition for inconsequential noncompliance with the following.

TMC states that the subject hoses are used in two applications. In the first, the hose operates at 85 pounds per square inch (psi) air pressure and the only function is to keep the parking brake off. If the hose were to fail completely in this application, the parking brake would immediately engage. The service brake would remain functional, but air pressure would rapidly be lost in the system. In the second, the hose operates at 100 psi air pressure and it functions as part of the backup brake system. In this application, a hose failure would not affect the operation of a properly functioning main service brake system.

Due to the length of time the subject hoses have been on the buses, differentiating the possibly noncompliant hoses from the compliant ones would be difficult, if not impossible, due to wear and tear from typical use. TMC estimates that less than eight percent of the installed hoses are of the potentially noncompliant type, but over 4,500 hoses would be required to be repalced if a recall were required. TMC believes that the potential safety problems would be greater if all 4,500 hoses were replaced without factory quality control, than if the existing hoses continue to be used.

In summary, based on TMC's warranty history and the function of the hoses, TMC believes that the noncompliance will not affect the safety of their vehicles and, therefore, is inconsequential as it relates to motor vehicle safety.

No comments were received on the petition.

A petition by Navistar International relating to adhesion failures in hoses manufactured by Dana was granted on October 11, 1991 (56 FR 51440), on the basis of the following arguments:

1. The end use of the hoses is such that they are subject to pressure, not vacuum applications.

2. If the hoses are used in vacuum applications, their crimped 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 hoses used by the petitioner are Dana Weatherhead hoses and they are used in pressure applications. The outer layer of the hoses is pin-pricked. The hoses are equipped with the same crimped end fittings as the Weatherhead hoses. Thus, the same factors exist in this case as 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.

(15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: January 7, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–698 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Notice No. 93–2]

Metric Conversion Policy

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed policy and request for comments.

SUMMARY: This document solicits comments on a proposed policy that would promote an orderly conversion to the metric system for all RSPA programs which are affected by the statutory mandates of Section 5164 of the Omnibus Trade and Competitiveness Act, Public Law 100–418. This Act makes it the policy of the United States to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce. The Act requires Federal agencies to use the metric system in procurements, grants, and

other business-related activities to the extent economically feasible by the end of 1992. RSPA will comply with the policy established by the Department of Commerce, the agency leading this effort, and by the Department of Transportation.

DATES: Written Comments must be received on or before February 22, 1993.

ADDRESSES: Submit written, signed comments to the number assigned to this notice, Research and Special Programs Administration, Volpe National Transportation Systems Center, Management Systems Office, room 1127, 55 Broadway, Cambridge, MA 02142. All comments received will be available for examination.

FOR FURTHER INFORMATION CONTACT: David M. Daley, Management Systems Office, at the above address or telephone (617) 494–2419.

SUPPLEMENTARY INFORMATION:

I. Background

Federal agencies are required to use the metric system of measurement in procurement, grants and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to the United States firms, such as when foreign competitors are producing competing products in non-metric units. (Omnibus Trade and Competitiveness Act Pub. L. 100–418, section 5164.) The U.S. Department of Commerce published its guidance for Federal agencies, which requires these agencies to: (1) Establish metric conversion plans and dates for use of the metric system to procurement, grants, and other business-related activities; (2) coordinate with other Federal agencies, State and local governments and the private sector; (3) assist in the removal of barriers to metric system transition; and (4) provide for full public involvement and timely information about significant metrification policies, programs and actions.

The Department of Commerce further requires that Federal agencies shall give due consideration to known effects of their actions on State and local governments and the private sector as well as publications or agency statements of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describe the paying business particular attention to effect on small business. (Omnibus Trade and Competitiveness Act Pub. L. 100–418, section 5164.)

The Department of Transportation has issued implementing guidance under DOT Order 1020.1C. The Order states that the Department of Commerce interprets the 1992 deadline for metric conversion to mean that plans scheduling such conversion should be in place by then, with some conversion underway and other conversions scheduled, as appropriate, for later dates. For purposes of these guidelines such scheduled conversions should be completed where possible by 1997, and where necessary go beyond that year.

II. Purpose

The purpose of this notice is to solicit comments on the action and the proposed timetable for conversion to the metric system for all RSPA programs.

Metric conversion for RSPA is not voluntary; it is now mandatory for RSPA's procurement, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms.

A. Definitions

Metric system means the international System of Units (SI) established by the General Conference of Weights and Measures in 1960, as interpreted or modified from time to time for the United States by the Secretary of Commerce under the authority of the Metric Conversion Act of 1975.

Other business-related activities means measurement-sensitive commercial or business-directed transactions or programs, i.e., standard or specification development, procedure or practice requirements of an agency.

Measurement-sensitive means that the choice of a measurement unit is a critical component of the activity; i.e., an agency rule/regulation to collect samples or measure something at specific distances or to specific depths, or specifications, requiring intake or discharge of a product to certain volumes or flow rates; guidelines for clearances between objects for safety, security or environmental purposes, etc.

B. General Policy

RSPA will promote an orderly transition to the metric system for all programs in accordance with the statutory requirements, Department of Commerce policy guidance and Department of Transportation guidance.

The Federal Acquisition Regulations issued by the General Services Administration (GSA), in addition to other GSA and DOT regulations and policies, will govern metric conversion of RSPA's procurement policies. RSPA will determine the training needs of personnel most closely associated with implementation of the metric conversion plan. Requests for conversion tables and staff training will provide minimal impact on budgetary planning for most programs.

Training activities will be coordinated through the DOT's Metric Coordinating Committee. RSPA will establish a working committee with representatives from each program area to coordinate the implementation of its metric conversion plan. RSPA timetable for total metric conversion is FY 1997.

C. Program Exclusions

Metric usage shall not be required to the extent such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. (Omnibus Trade and Competitiveness Act Pub. L. 100–418, section 5164).

Issued on: January 7, 1993.

Douglas Ham,

Acting Administrator.

[FR Doc. 93–764 Filed 1–12–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 7, 1993.

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.

Financial Management Service

OMB Number: 1510–0035
Form Number: None
Type of Review: Extension
Title: Assignment Form
Description: This form is used when awardholders wish to assign or transfer all or a portion of their award to another person. In doing so, awardholder forfeits all future rights to the portion assigned.
Respondents: Individuals or households
Estimated Number of Respondents: 150
Estimated Burden Hours Per Response: 30 minutes
Frequency of Response: Other (as needed)
Estimated Total Reporting Burden: 75 hours

Clearance Officer: Jacqueline R. Perry, (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
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. 93–762 Filed 1–12–93; 8:45 am]
BILLING CODE 4810–35–M

Public Information Collection Requirements Submitted to OMB for Review

Dated: January 7, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0633
Form Number: IRS Notices 437, 438, 466
Type of Review: Extension
Title: Notice of Intention to Disclose
Description: Notice is required by 26 U.S.C. 6110(f). A reply is necessary if recipient disagrees with the Service's proposed deletions. The Service uses the reply to consider propriety of making additional deletions to public inspection version of written determinations or related background file documents.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 5,000
Estimated Burden Hours Per Respondent: 30 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 2,500 hours.

OMB Number: 1545–0806
Regulation ID Number: EE–12–78 Final
Type of Review: Extension
Title: Nonbank Trustees of Pension and Profit-Sharing Trusts Benefiting Owner-Employees
Description: IRS section 408(a)(2) permits a person other than a bank to be the trustee of an IRA. To do so, application needs to be filed and various qualifications need to be met. IRS uses the information to determine whether a person qualifies to be a non-bank trustees.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 340
Estimated Burden Hours Per Respondent/Recordkeeper: 46 minutes
Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeping Burden: 260.

OMB Number: 1545–0881
Form Number: IRS Form 8271
Type of Review: Extension
Title: Investor Reporting of Tax Shelter Registration Number
Description: All persons who are claiming a deduction, loss, credit, or other tax benefit, or reporting any income on their returns from a tax shelter required to be registered (under IRC 6111) must report the tax shelter registration number on that return. Form 8271 is used for this. We use the information to associate claimed benefits with the tax shelter and to determine if any compliance actions are needed.
Respondents: Individuals or households, State or local governments, Farms, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents/ Recordkeepers: 297,500
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	7 minutes
Learning about the law or the form	15 minutes
Preparing the form	17 minutes
Copying, assembling, and sending the form to the IRS	14 minutes

Frequency of Response: Annually
Estimated Total Reporting/ Recordkeeping Burden: 258,825 hours
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports, Management Officer.
[FR Doc. 93–761 Filed 1–12–93; 8:45 am]
BILLING CODE 4830–01–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 from 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 Patti Viers, Records Management Service (723), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–3172.

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 OMD Desk Officer on or before February 12, 1993.

Dated: January 6, 1993.

By direction of the Secretary:

Frank E. Lalley,
Associate Deputy Assistant Secretary for Information Resources Policies and Oversight.

Extension

1. 38 CFR 1.519 Lists of Names and Addresses.

2. The information is used to determine whether an applicant for a list of VA beneficiary names and addresses is a nonprofit organization and intends to use the list for a proper purpose.

3. State or local Governments—Non-profit institutions.

4. 106 hours.

5. 60 minutes.

6. On occasion.

7. 106 respondents.

[FR Doc. 93–769 Filed 1–12–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 8
Wednesday, January 13, 1993

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).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 FR 375.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., Thursday, January 4, 1993.

CHANGES IN THE MEETINGS: The Commodity Futures Trading Commission has cancelled the meeting previously announced to discuss Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–882 Filed 1–11–93; 2:26 pm]

BILLING CODE 6351–01–M

DEFENSE NUCLEAR FACILITIES SAFETY BOARD:

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the Board's meeting described below. The Board will also conduct a public hearing pursuant to 42 U.S.C. 2286b and invites any interested persons or groups to present any comments, technical information, or data concerning current health or safety questions at the Hanford Site.

TIME AND DATE: 5:30 p.m. February 11, 1993—Department of Energy presentations; 8:00 p.m.—Opportunity for interested persons to present oral comments concerning the matters to be considered.

PLACE: Federal Building Auditorium, 825 Jadwin Avenue, Richland, WA 99352.

STATUS: Open. While the Government in the Sunshine Act does not require that the scheduled briefing be conducted in a meeting, the Board has determined that an open meeting in this specific case furthers the public interests underlying both the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: The open public meeting and hearing are being held so as to provide the Board with the latest and best information on a number of current health and safety questions at the Hanford Site, and to receive from members of the public any pertinent comments they wish to make on these or other Hanford-related health and safety issues. The Department of Energy will take appropriate measures to safeguard any classified or controlled nuclear information it presents at this meeting. The public hearing portion is independently authorized by 42 U.S.C. 2286b.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW, Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Requests to speak at the hearing may be submitted in writing or by telephone. We ask that commentators describe the nature and scope of the oral presentation. Those who contact the Board prior to close of business on February 8, 1993, will be scheduled for time slots, beginning at approximately 8:00 p.m. The Board will post a schedule for those speakers who have contacted the Board before the hearing. The posting will be made at the entrance to the Federal Building Auditorium at the start of the 5:30 p.m. meeting.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to making an oral presentation. The Board members may question presenters to the extent deemed appropriate. The Board will hold the record open until February 22, 1993, for the receipt of materials. A transcript of the meeting will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's public reading room at DOE's Richland Field Office, Federal Building, Room 157 (A1–65), 825 Jadwin Avenue, Richland, WA 99352.

The Board specifically reserves its right to further schedule and otherwise regulate the course of the meeting and hearing, to recess, reconvene, postpone or adjourn the meeting, conduct further reviews, and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Dated: January 11, 1993.

Robert M. Andersen,

General Counsel.

[FR Doc. 93–949 Filed 1–11–93; 2:29 pm]

BILLING CODE 6820–KD–M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 57 FR 61965, Tuesday, December 29, 1992.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m. (Eastern Time), Tuesday, January 12, 1993.

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, on (202) 663–4070.

Dated: January 11, 1993.

Frances M. Hart,

Executive Officer, Executive Secretariat.

[FR Doc. 93–959 Filed 1–11–93; 2:46 pm]

BILLING CODE 6750–06–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on January 14, 1993, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883–4003, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

B. Reports

1. Collateral Evaluation Regulations

C. Unfinished Business

1. Privacy Act Notice for Investigative Files of the Office of Inspector General

D. New Business

1. Regulations

a. Employee Responsibilities and Conduct; 12 CFR Part 601 (Final).

2. Rules for Transaction of Business

Closed Session*

A. New Business

1. Enforcement Actions

*Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: January 11, 1993.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 93–900 Filed 1–11–93; 8:45 am]

BILLING CODE 6705–01–U

FEDERAL HOUSING FINANCE BOARD

TIME AND DATE: 9:00 A.M., THURSDAY, JANUARY 21, 1993, 9:00 A.M., FRIDAY, JANUARY 22, 1993

PLACE: 2000 W. Westcourt Way, Tempe, Arizona.

STATUS: This entire meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS CLOSED TO THE PUBLIC: The Board will consider the following:

1. GSE Studies.
2. System 2000
3. Agency's 1993 Priorities
4. Board Management Issues.

The above matters are exempt under one or more of sections 552b(c) (2) and (9) (A) and (B) of title 5 of the United States Code.

CONTACT PERSONS FOR MORE INFORMATION: Elaine L. Baker, Executive Secretary to the Board, (202) 408–2837.

Philip L. Conover,

Managing Director.

[FR Doc. 93–943 Filed 1–11–93; 2:28 pm]

BILLING CODE 6725–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATES: 11:00 a.m., Tuesday, January 19, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a Federal Reserve Bank's renovation project.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 11, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–994 Filed 1–11–93; 3:49 pm]

BILLING CODE 5210–01–M

Corrections

Federal Register
Vol. 58, No. 8
Wednesday, January 13, 1993

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 LABOR

Mine Safety and Health Administration

Petitions for Modification

Correction

In notice document 92–31578 beginning on page 62390 in the issue of Wednesday, December 30, 1992, make the following corrections:

1. On page 62391, in the first column, under the heading **"5. Mid-Continent Resources, Inc."**, in the third line, "Corbondale" should read "Carbondale".

2. On the same page, in the second column, under the heading **"10. Westmoreland Coal Co."**, the Docket No. should read "M–92–181–C".

BILLING CODE 1505–01–D

PENSION BENEFIT GUARANTY CORPORTATION

29 CFR Parts 2616 and 2617

RIN 1212–AA41 and RIN 1212–AA47

Distress Terminations of Single-Employer Plans; Standard Terminations of Single-Employer Plans

Correction

In rule document 92–30057 beginning on page 59206 in the issue of Monday, December 14, 1992, make the following corrections:

1. On page 59208, in the third column, the first two headings should read:

"Standard Termination Time Line"

"420 Days or Approximately 14 Months"

2. On page 59215, in the 2d column, in the 16th and 18th lines, "i.e.," should read "*i.e.,*" each time it appears.

3. On page 59216, in the second column, in the ninth line from the bottom, "(e.g.," should read "(*e.g.,*".

4. On the same page, in the third column, in the last line, after "not" insert "impossible, and the PBGC has therefore added paragraph (e).)"

§ 2616.1 [Corrected]

5. On page 59218, in the second column, in § 2616.1(b), in the last line, "January 28, 1992." should read "January 28, 1993."

§ 2617.24 [Corrected]

6. On page 59230, in the third column, in § 2617.24(b), the parenthetical "(i)" and "(ii)" should read "(1)"and "(2)" respectively.

7. On page 59231, in the first column, in § 2617.24(d)(4), in the seventh line, "e.g.," should read "*e.g.,*.

8. On the same page, in the same column, in § 2617.24(e), the first and second lines should read "(e) *Benefits of participants not in pay status but form and starting date known.*"

BILLING CODE 1505–01–D

Federal Register

Wednesday
January 13, 1993

Part II

Department of Health and Human Services

National Institutes of Health

Privacy Act of 1974; Annual Publication of Notices of Systems of Records

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Privacy Act of 1974; Annual Publication of Notices of Systems of Records

AGENCY: Public Health Service, DHHS.

ACTION: Privacy Act: Annual republication of notices of revised systems of records.

SUMMARY: The National Institutes of Health (NIH) has conducted a comprehensive review of all Privacy Act systems of records and is publishing the resulting revisions. None of the revisions meet the OMB criteria for a new or altered system of records requiring an advance period for public comment. These changes are in compliance with circular A–130, appendix 1. The notices republished below are complete and accurate as of December 14, 1992.

SUPPLEMENTARY INFORMATION: The following information summarizes the current status of systems of records which had minor modifications during 1992 and lists all systems maintained by NIH:

A. **System name.** The following systems have been updated to reflect a change in the name of the system:

09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/ Chartered Advisory Committee, HHS/NIH/ DRG and HHS/NIH/CMO.

09–25–0075, Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/ OER.

09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/ OSR.

09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.

09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

B. **System location.** The following systems have been updated to reflect a change in the system locations. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

09–25–0069, NIH Clinical Center: Admissions of the National Cancer Institute, HHS/NIH/NCI.

09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/ OSR.

09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.

09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.

09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/ NIDA.

09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/ NIDA and HHS/NIH/NIMH.

09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/ NIDA.

C. **Categories of individuals covered by the system.** The following systems have been updated to reflect a change in the categories covered by the system. This change does not alter the character or purpose of the system.

09–25–0124, Administration: Pharmacology Research Associates, HHS/ NIH/NIGMS.

09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

D. **Categories of records.** The following systems have been updated to reflect a change in the categories of records in the system. This change does not alter the character or purpose of the system.

09–25–0124, Administration: Pharmacology Research Associates, HHS/ NIH/NIGMS.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.

09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

E. **Authority.** The following systems have been updated to reflect a change in the authority. This change does not alter the character or purpose of the system.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

09–25–0204, Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA, and HHS/NIH/NIMH.

09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/ NIDA and HHS/NIH/NIMH.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.

09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/ NIDA.

F. **Storage.** There are no changes in this category.

G. **Retrieval.** There are no changes in this category.

H. **Safeguards.** The following systems have been updated to reflect a change in the safeguards:

09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/ NIDA.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.
09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

I. **Retention and disposal.** The following systems have been updated to reflect a change in retention and disposal:

09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.
09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

J. **System manager(s) and address(es).** The following systems have been updated to reflect a change in the system manager or the address of the system manager. These changes do not affect the access by the individual to the individual's records.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD.
09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.
09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/ Chartered Advisory Committee Information), HHS/NIH/DRG and HHS/NIH/CMO.
09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.
09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.
09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.
09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/ NIAID.
09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/ OSR.
09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR.
09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.
09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.
09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/ NIDA.
09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.
09–25–0204, Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA, and HHS/NIH/NIMH.
09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/ NIDA and HHS/NIH/NIMH.
09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.
09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.
09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.
09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

K. **Record access.** The following system has been updated to reflect a change in the record access procedures.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

L. **Notification procedures.** The following systems have been updated to reflect a change in the office, official, and/or address to write to in order to determine whether or not the system contains a record about the individual.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.
09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.
09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

M. **The following systems have been changed for clarity and editing purposes.** In addition, the language in the sections on Safeguards, Record Access Procedures, and Contesting Record Procedures for the systems listed in the Table of Contents has been edited to improve the clarity and specificity of the system notice and/or to incorporate standardized language to achieve uniformity.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD
09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/ Chartered Advisory Committee Information), HHS/NIH/DRG and HHS/NIH/CMO.
09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.
09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.
09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.
09–25–0124, Administration: Pharmacology Research Associates, HHS/ NIH/NIGMS.
09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.
09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.
09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/ NIAID.
09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.
09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG.
09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.
09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.
09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/ NIDA and HHS/NIH/NIMH.
09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.
09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.
09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.
09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

N. **Organization name change.** The NIH has assumed responsibility for the following systems from ADAMHA and has renamed and revised them as follows.

09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.
09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly

Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA.

09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

09–25–0204, Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA, and HHS/NIH/NIMH.

09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.

09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

09–25–0211, Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA.

09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

O. Deleted systems of records. The following systems of records which appeared in the 1992 annual publication are now being deleted because:

09–25–0048, Clinical Research: Serology-Epidemiology Parasite Research, HHS/NIH/NIAID. The study has been completed and the records destroyed.

09–25–0096, Contracts: NCI Contract Management System Principal Investigators, Project Officers and Contract Specialists. The system no longer contains personal information on individuals.

The following is a list of active systems of records maintained by NIH.

Table of Contents

09–25–0001, Clinical Research: Patient Records, HHS/NIH/NHLBI, published Federal Register, Vol. 55, Number 101, May 24, 1990.

09–25–0005, Administration: Library Operations and User I.D. File, HHS/NIH/OD, published Federal Register, Vol. 56, No. 79, April 24, 1991, p. 18830.

09–25–0007, Administration: NIH Safety Glasses Issuance Program, HHS/NIH/ORS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0010, Research Resources: Registry of Individuals Potentially Exposed to Microbial Agents, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0011, Clinical Research: Blood Donor Records, HHS/NIH/CC, published Federal Register, Vol. 55, Number 101, May 24, 1990.

09–25–0012, Clinical Research: Candidate Normal Volunteer Records, HHS/NIH/CC, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0014, Clinical Research: Student Records, HHS/NIH/CC, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0015, Clinical Research: Collaborative Clinical Epilepsy Research, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0016, Clinical Research: Collaborative Perinatal Project HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0026, Clinical Research: Nervous System Studies, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0028, Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0031, Clinical Research: Serological and Virus Data in Studies Related to the Central Nervous System, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0033, International Activities: Fellowships Awarded by Foreign Organizations, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0034, International Activities: Scholars-in-Residence Program, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0035 International Activities: Health Scientist Exchange Programs, HHS/NIH/FIC, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0036, Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement/Chartered Advisory Committee, HHS/NIH/DRG and HHS/NIH/CMO, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0037, Clinical Research: The Baltimore Longitudinal Study of Aging, HHS/NIH/NIA, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0038, Clinical Research: Patient Data, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0039, Clinical Research: Diabetes Mellitus Research Study of Southwestern American Indians, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0040, Clinical Research: Southwestern American Indian Patient Data, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0041, Research Resources: Scientists Requesting Hormone Distribution, HHS/NIH/NIDDK, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0042, Clinical Research: National Institute of Dental Research Patient Records, HHS/NIH/NIDR, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0044, Clinical Research: Sensory Testing Research Program, HHS/NIH/NIDR, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0046, Clinical Research: Catalog of Clinical Specimens from Patients, Volunteers and Laboratory Personnel, HHS/NIH/NIAID, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0053, Clinical Research: Vision Studies, HHS/NIH/NEI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0054, Administration: Property Accounting, HHS/NIH/ORS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0057, Clinical Research: Burkitt's Lymphoma Registry, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0060, Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0067, Clinical Research: National Cancer Incidence Surveys, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0069, NIH Clinical Center: Admissions of the National Cancer Institute, HHS/NIH/NCI, published Federal Register, Vol. 55, No. 101, May 24, 1990.

09–25–0074, Clinical Research: Division of Cancer Biology and Diagnosis Patient Trials, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0075, Institutions Submitting Assurances for Protection from Research Risks and Animal Welfare, HHS/NIH/OD/OER, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0077, Biological Carcinogenesis Branch Human Specimen Program, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0078, Administration: Consultant File, HHS/NIH/NHLBI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0087, Administration: Senior Staff, HHS/NIH/NIAID, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0091, Administration: General Files on Employees, Donors and Correspondents, HHS/NIH/NEI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0093, Administration: Administration Authors, Reviewers and Members of the Journal of the National Cancer Institute, HHS/NIH/NCI, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0099, Clinical Research: Patient Medical Records, HHS/NIH/CC, published Federal Register, Vol. 55, Number 101, May 24, 1990.

09–25–0100, Clinical Research: Neuropharmacology Studies, HHS/NIH/NINDS, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0102, Administration: Grants Associates Program Working Files, HHS/NIH/DRG, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0105, Administration: Health Records of Employees, Visiting Scientists, Fellows, Contractors and Relatives of Inpatients, HHS/NIH/OD, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0106, Administration: Executive Secretariat Correspondence Records, HHS/NIH/OD, published Federal Register, Vol. 56, No. 8, January 11, 1991.

09–25–0108, Personnel: Guest Researchers/ Student Scientists/Special Volunteers/ Scientists Emeriti, HHS/NIH/DPM, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0112, Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0115, Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0118, Contracts: Professional Services Contractors, HHS/NIH/NCI, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0121, International Activities: Senior International Fellowships Program, HHS/NIH/FIC, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0124, Administration: Pharmacology Research Associates, HHS/ NIH/NIGMS, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0126, Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0128, Clinical Research: Neural Prosthesis and Biomedical Engineering Studies, HHS/NIH/NINDS, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0129, Clinical Research: Clinical Research Studies Dealing with Hearing, Speech, Language and Chemosensory Disorders, HHS/NIH/NIDCD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0130, Clinical Research: Studies in the Division of Cancer Cause and Prevention, HHS/NIH/NCI, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0134, Clinical Research: Epidemiology Studies, National Institute of Environmental Health Sciences, HHS/NIH/ NIEHS, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0140, International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0142, Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0143, Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/ NIAID, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0145, Clinical Trials and Epidemiological Studies Dealing with Visual Disease and Disorders in the National Eye Institute, HHS/NIH/NEI, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0148, Contracted and Contract-Related Research: Records of Subjects in Clinical, Epidemiological and Biomedical Studies of the National Institute of Neurological Disorders and Stroke and the National Institute on Deafness and Other Communication Disorders, HHS/NIH/NINDS and HHS/NIH/NIDCD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0151, Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/ OSR, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0152, Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0153, Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0154, Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/ NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

09–25–0156, Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0158, Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD, published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0160, United States Renal Data System (USRDS), HHS/NIH/NIDDK published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0161, Administration: NIH Consultant File, HHS/NIH/DRG published **Federal Register**, Vol. 56, No. 8, January 11, 1991.

09–25–0165, National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD, published **Federal Register**, August 5, 1991, Vol. 56, No. 150, p. 37223.

09–25–0166, Administration: Radiation Safety Information, HHS/NIH/ORS, published **Federal Register**, September 26, 1991, Vol. 56, No. 187, p. 48806.

09–25–0167, National Institutes of Health (NIH) Transhare Program, HHS/NIH/OD, published **Federal Register**, September 2, 1992, Vol.57, No.171, p. 40194.

09–25–0201, Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH, published **Federal Register**, November 24, 1986, Vol. 51, No. 226, p. 42376.

09–25–0202, Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/ NIDA, published **Federal Register**, January 11, 1991, Vol. 56, No. 8, p. 1235.

09–25–0203, National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA published **Federal Register**, January 11, 1991, Vol. 56, No. 8, p. 1235.

09–25–0204, Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA, and HHS/NIH/NIMH, published **Federal Register**, January 11, 1991, Vol. 56, No. 8, p. 1235.

09–25–0205, Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/ NIDA and HHS/NIH/NIMH, published **Federal Register**, December 24, 1991, Vol. 56, No. 247, p. 66675.

09–25–0206, Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA, published **Federal Register**, November 24, 1986, Vol. 51, No. 226, p. 42388.

09–25–0207, Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA published **Federal Register**, November 24, 1986, Vol. 51, No. 226, p. 42390.

09–25–0208, Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA, published **Federal Register**, December 24, 1991, Vol. 56, No. 247, p. 66675.

09–25–0209, Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA, published **Federal Register**, November 24, 1991, Vol. 51, No. 226, p. 42392.

09–25–0210, Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/ NIDA, published **Federal Register**, January 11, 1991, Vol. 56, No. 8, p. 1237.

09–25–0211, Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA, published **Federal Register**, November 24, 1986, Vol. 51, No. 226, p. 42376.

09–25–0212, Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH, published **Federal Register**, June 14, 1988, Vol. 53, No. 114, p. 23850.

Dated: December 22, 1992.

Bernadine Healy,

Director, National Institutes of Health.

09–25–0005

SYSTEM NAME:

Administration: Library Operations and User I.D. File, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate system manager listed below for a list of current contractor locations.

National Institutes of Health, Building 10, Room 1L07, 9000 Rockville Pike, Bethesda, MD 20892 and

National Institutes of Health, Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892 and
National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894 and
National Institutes of Health, Building 38, Room B1E23, 8600 Rockville Pike, Bethesda, MD 20894 and
National Institutes of Health, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894 and
National Technical Information Service, Accounting Department, 8001 Forbes Place, Room 208F, Springfield, Virginia 22151

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of Library Services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, organization, address, phone number, user code and identification number; and when applicable, credit card number and billing information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation (42 U.S.C. 241).

PURPOSE OF THE SYSTEM:

(1) To monitor library material, services, and circulation control; (2) to provide user documentation; (3) to provide copying services (duplication of library materials); and (4) to manage invoice and billing transactions for library services.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors and staff to monitor library material, services, circulation control; to provide user documentation; and to process or refine the records. Recipients are required to maintain Privacy Act safeguards with respect to those records.

4. Disclosure may be made for billing purposes to: (a) Contractors providing copying services; and (b) NTIS for MEDLARS Services.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer tape and disc, microfiche, paper and file cards.

RETRIEVABILITY:

Records are retrieved by name, user code and/or identification number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to Library staff members who need to verify that Library identification cards have been issued to those Library users requesting services such as MEDLINE and other computer online bibliographic searches, translations and interlibrary loans. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager. The contractor maintains a list of personnel having authority to access records to perform their duties.

2. *Physical Safeguards:* The offices housing the cabinets and file drawers for storage of records are locked during all library off-duty hours. During all duty hours offices are attended by employees who maintain the files. The contractor has secured records storage areas which are not left unattended during the working hours and file cabinets which are locked after hours.

3. *Procedural Safeguards:* Access to the file is strictly controlled by employees who maintain the files. Records may be removed from files only at the request of the system manager or other authorized employees. Access to computerized records is controlled by the use of security codes known only to authorized users. Contractor personnel receive instruction concerning the significance of safeguards under the Privacy Act.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 8000–D–2, which allows records to be kept until superseded or for a maximum period of 6 years. Refer to the NIH Manual Chapter for specific conditions on disposal.

SYSTEM MANAGER AND ADDRESS:

The Policy Coordinating Official for this system is the Management Analyst, Office of Administration, National Library of Medicine, Building 38, Room 2N21, 8600 Rockville Pike, Bethesda, MD 20894.

Chief, Reference and Bibliographic Services Section, Library Branch, National Center for Research Resources, National Institutes of Health, Building 10, Room 1L21, 9000 Rockville Pike, Bethesda, MD 20892 and
Librarian, Division of Computer Research and Technology, National Institutes of Health, Building 12A, Room 3018, 9000 Rockville Pike, Bethesda, MD 20892 and
Supervisory Librarian, Preservation Section, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room B1E23, 8600 Rockville Pike, Bethesda, MD 20894 and
Chief, Public Services Division, Library Operations, National Library of Medicine, National Institutes of Health, Building 38, Room 1S33, 8600 Rockville Pike, Bethesda, MD 20894 and
Chief, Medlars Management Section, Bibliographic Services Division, Library Operations, National Institutes of Health, National Library of Medicine, Building 38A, Room 4N419, 8600 Rockville Pike, Bethesda, MD 20894

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, NIH Library ID card data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0028

SYSTEM NAME:

Clinical Research: Patient Medical Histories, HHS/NIH/NINDS and HHS/NIH/NIDCD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Building 10, Building 31, and Building 36, NIH, 9000 Rockville Pike, Bethesda, MD 20892.

Write to the system manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present patients of the National Institute of Neurological Disorders and Stroke (NINDS) and the National Institute on Deafness and Other Communication Disorders (NIDCD), and individuals being referred for admission to the NIH Clinical Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories and diagnoses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

Clinical research on various diseases of the nervous system and hearing, hearing loss, and communication disorders by HHS scientists and their authorized collaborators, with the specific aim of improving patient care and treatment by evaluating therapeutic procedures.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Clinical research data are made available to approved or collaborating researchers, including HHS contractors and grantees. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

2. Information may be used to respond to congressional inquiries for constituents concerning admission to the NIH Clinical Center.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant access only to HHS researchers and their authorized collaborators.

2. *Physical Safeguards:* Records are kept locked in a file cabinet when not in use and in a location which is locked during non-working hours.

3. *Procedural Safeguards:* Records are returned to the files at the close of each working day and are used only in the system location or in a designated work area.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1 — "Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 3000-G-3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director of Intramural Research, NINDS Building 10, Room 5N214, NIH, 9000 Rockville Pike, Bethesda, MD 20892
and
Director of Intramural Research, NIDCD, Building 31, Room 3C25, NIH, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, contact:

Chief, Administrative Services Branch, NINDS, Building 31, Room 8A49, NIH, 9000 Rockville Pike, Bethesda, MD 20892 or
Chief, Administrative Management Branch, NIDCD, Building 31, Room 3C21, NIH, 9000 Rockville Pike, Bethesda, MD 20892

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing, a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought, and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Referring and attending physicians, hospital records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0036

SYSTEM NAME:

Extramural Awards and Chartered Advisory Committees: IMPAC (Grant/Contract/Cooperative Agreement Information/Chartered Advisory Committee Information), HHS/NIH/DRG and HHS/NIH/CMO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892 and Building 12, NIH Computer Center, 9000 Rockville Pike, Bethesda, MD 20892

For information pertaining to the chartered advisory committees of the National Institutes of Health: Building 31, Room 3B–55, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicant and Principal Investigators; Program Directors; NRSA Trainees and Fellows; Research Career Awardees; and Chartered Advisory Committees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications, awards, associated records, trainee appointments, and current and historical information pertaining to chartered advisory committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241c, 58 Stat. 691c & d repealed.

PURPOSE OF THE SYSTEM:

(1) To support centralized grant programs of the Public Health Service. Services are provided in the areas of grant application assignment and referral, initial review, council review, award processing and grant accounting. The data base is used to provide complete, accurate, and up-to-date reports to all levels of management. (2) To maintain communication with former fellows and trainees who have incurred a payback obligation through the National Research Service Award Program. (3) To maintain current and historical information pertaining to the establishment of chartered advisory committees of the National Institutes of Health and the appointment or designation of their members.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to the National Technical Information Service (NTIS), Department of Commerce, for dissemination of scientific and fiscal information on funded awards (abstract of research projects and relevant administrative and financial data).

2. Disclosure may be made to the cognizant audit agency for auditing.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations for opinions as a part of the application review process.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision in the matter.

6. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

8. Disclosure may be made to the grantee institution in connection with performance or administration under the conditions of the award.

9. Disclosure may be made to the Department of Justice, or to a court or other tribunal, from this system of records when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on discs and magnetic tapes.

RETRIEVABILITY:

Records are retrieved by name, application, grant or contract ID number.

SAFEGUARDS:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to PHS extramural staff. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Physical access to DRG work areas is restricted to DRG employees.

3. *Procedural Safeguards:* Access to source data files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee. Access to computer files is controlled by the use of registered accounts, registered initials, keywords, etc. The computer system maintains an audit record of all attempted and successful requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–A–2, which allows records to be destroyed when no longer needed for administrative purposes. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS AND ADDRESSES:

Chief, Information Systems Branch, Division of Research Grants, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892.

For information pertaining to the chartered advisory committees of the National Institutes of Health: NIH Committee Management Officer, Building 31, Room 3B–55, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists write to:

Privacy Act Coordinator, Division of Research Grants, Westwood Building, Room 449, 5333 Westbard Avenue, Bethesda, MD 20892.

For information pertaining to the chartered advisory committees of the National Institutes of Health: NIH Committee Management Officer, Building 31, Room 3B–55, 9000 Rockville Pike, Bethesda, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individual, individual's educational institution and references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0060

SYSTEM NAME:

Clinical Research: Division of Cancer Treatment Clinical Investigations, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892 and

Frederick Cancer Research and Development Center, Building 426, Frederick, MD 21701 and

National Cancer Institute, Biological Response Modifiers Program (BRMP), 501 W. 7th Street, Suite No. 3, Frederick, MD 21701 and

National Cancer Institute, Navy Hospital, Building 8, Room 3146, Bethesda, MD 21814 and

National Cancer Institute, Division of Cancer Treatment, Cancer Therapy Evaluation Program, Executive Plaza North, Room 707, Bethesda, MD 20892, and at hospitals and clinics, educational and research institutions, Federal, State or local government agencies, and private facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All patients who have been hospitalized or seen in outpatient clinics on treatment research protocols in the National Cancer Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 241, 281, 282.

PURPOSE(S) OF THE SYSTEM:

(1) Patient care and treatment. (2) Clinical and epidemiological research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to

directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes, microcomputer disks, index cards, microfiche, and manual paper records.

RETRIEVABILITY:

Records are retrieved by patient name or number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute, or its contractors, whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Records are kept in a limited access area. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. *Procedural Safeguards:* Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESSES:

Head, Biostatistics and Data Management Section, National Institutes of Health, 8601 Old Georgetown Road, Bethesda, MD 20892 and

Chief, Clinical Research Branch, Biological Response Modifiers Program, Frederick Cancer Research and Development Center, 501 W. 7th Street, Suite #3, Frederick, MD 21701 and

Navy Hospital, Deputy Branch Chief, NCI—Naval Medical Oncology Branch, Building 8, Room 5101, Bethesda, MD 20814 and

Head, Drug Management and Authorization Section, Cancer Therapy Evaluation Program, Division of Cancer Treatment, National Cancer Institute, Executive Plaza North, Room 707, Bethesda, MD 20892 and

Director, Extramural Clinical Studies, BRB, BRMP, Division of Cancer Treatment, National Cancer Institute, Frederick Cancer Research and Development Center, Fort Detrick, Frederick, MD 21701

NOTIFICATION PROCEDURE:

Write to the system manager for the appropriate location to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Hospital medical records, referring physician, referring hospitals, clinical laboratories, patient contact, and Central Tumor Registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0069

SYSTEM NAME:

NIH Clinical Center Admissions of the National Cancer Institute, HHS/NIH/NCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Chief, Family Studies, Section, DCE, Executive Plaza North, Rooms 400 and 439, 6130 Executive Blvd., Bethesda, MD 20892 and

National Institutes of Health, Division of Computer Research and Technology, Building 12A, 9000 Rockville Pike, Bethesda, MD 20892 and

WESTAT, Inc., Manugistics Building, Suite 402, 2115 E. Jefferson Street, Rockville, MD 20852 and

Survey Research Associates, Inc., Executive Office Center, Suite 201, 2101 E. Jefferson Street, Rockville, MD 20852

Write to the System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former cancer patients and their family members admitted to the NIH Clinical Center or the National Cancer Institute (NCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical histories, reports and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 285a.

PURPOSE OF THE SYSTEM:

National Cancer Institute physicians and supporting staff are involved in research on the cause and diagnosis of disease and the treatment of patients, requiring the maintenance of working files to chart progress, responses to treatment, etc.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with respect to these records.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. Disclosure may be made to a contractor when the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

4. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

5. (a) PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b) PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on computer files.

RETRIEVABILITY:

Records are retrieved by identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to physicians, scientists and support staff of the National Cancer Institute and the Clinical Center whose duties require the use of such information. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Records are kept in limited access areas. Offices are locked during off-duty hours. Input data for computer files is coded to avoid individual identification.

3. *Procedural Safeguards:* Access to manual files is strictly controlled by files staff. Files may be accessed only at the request of the system manager or other authorized employee. Access to computer files is controlled through security codes known only to authorized users. Access codes are changed frequently.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESSES:

National Cancer Institute, NIH, Division of Cancer Etiology, Epidemiology and Biostatistics Program, Chief, Family Studies Section, EEB, Executive Plaza North, Suite 439, Bethesda, MD 20892 and

Chief, Clinical Genetics Section, Clinical Epidemiology Branch, Executive Plaza North, Suite 400, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to system manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a

record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Patients' personal physicians, NIH staff treating the patients or performing tests, requested outside records, and patients themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0075

SYSTEM NAME:

Administration: Institutions Submitting Assurances for Protection From Research Risks and Animal Welfare, HHS/NIH/OD/OER.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons submitting research proposals to the National Institutes of Health involving risks to subjects or matters pertaining to the protection of the rights and welfare of human research subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research protocol, identification of Principal Investigator, institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(c)(g).

PURPOSE OF THE SYSTEM:

Monitoring of research proposals that may involve undue risks to subjects or ethical considerations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on card file.

RETRIEVABILITY:

Records are retrieved by name of Principal Investigator.

SAFEGUARDS:

1. Authorized Users: Members of the professional staff of the Office for Protection from Research Risks (OPRR) may use information from the file in connection with follow-up procedures of research proposals identified as involving potential risk to the protection of the rights and welfare of human research subjects.

2. Physical Safeguards: Records are maintained in offices which are monitored during business hours and are locked during off-duty hours.

3. Procedural Safeguards: Requests for information from the file are made to the Compliance Coordinator who supervises and is responsible for the file. Computer files are password protected.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B-361), item 7000-A-1, which allows records to be destroyed after a maximum period of 6 years after the file is closed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, OPRR, National Institutes of Health, Building 31, Room 5B59, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

Write to System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Proposals submitted by individuals, but identified by employees or consultants of HHS as possibly involving undue hazards.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0087

SYSTEM NAME:

Administration: Senior Staff, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Building 31, Room 7A34, 9000 Rockville Pike, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former key professional employees of the Institute and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Press releases, curriculum vitae, nominations for awards and photographs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241(d) 289a.

PURPOSE OF THE SYSTEM:

For background records to provide public announcements on National Institute of Allergy and Infectious Diseases (NIAID) research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to staff whose duties require the use of such information. Authorized users are located in the Office of the Director, NIAID. Other one time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Records in this system are stored in file folders which are kept in locked cabinets. The room is locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS

Director, Office of Communications, National Institutes of Health, Building 31, room 7A50, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: National Institutes of Health, Privacy Act Coordinator, NIAID, Solar Bldg.,. room 4C–01, 6003 Executive Blvd., Rockville, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the address above, and reasonably identify the record and specify the information to be contested, and state the corrective action sought and the reasons for the correction, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals and newspaper clippings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0112

SYSTEM NAME:

Grants and Cooperative Agreements: Research, Research Training, Fellowship and Construction Applications and Related Awards, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

See Appendix I.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Grant applicants and Principal Investigators; Program Directors; Institutional and Individual Fellows; Research Career Awardees; and other employees of Applicant and/or grantee institutions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grant and cooperative agreement applications and review history, awards, financial records, progress reports, payback records, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

"Research and Investigation," "Appointment and Authority of the Directors of the National Research Institutes," "National Institute of Mental Health," "National Institute on Drug Abuse," "National Institute on Alcohol Abuse and Alcoholism," "National Cancer Institute," "National Heart, Lung and Blood Institute," "National Institute of Diabetes, and Digestive and Kidney Diseases," "National Institute of Arthritis and Musculoskeletal and Skin Diseases," "National Institute on Aging," "National Institute on Allergy and Infectious Diseases," "National Institute of Child Health and Human Development," "National Institute of Dental Research," "National Eye Institute," "National Institute of Neurological Disorders and Stroke," National Institute of General Medical Sciences," "National Institute of Environmental Health Sciences," "National Institute on Deafness and Other Communication Disorders," and the "National Library of Medicine," of the Public Health Service Act. (42 U.S.C. 241, 284, 285, 285(b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), 286b–286b–7.

PURPOSE(S) OF THE SYSTEM:

(1) Information provided is used by NIH staff for review, award, and administration of grant programs.

(2) Information is also used to maintain communication with former fellows who have incurred an obligation

through the National Research Service Award Program.

(3) Staff may also use curriculum vitae to identify candidates who may serve as ad hoc consultants or committee and council members in the grant peer review process.

(4) As a part of the cost analysis of a proposed grant, a budget review is conducted of the percentage of time and effort listed under personnel category, equipment and supply categories, and other items listed under "other" category.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made of assignments of research investigators and project monitors to specific research projects to the National Technical Information Service (NTIS), Department of Commerce, to contribute to the Smithsonian Science Information Exchange, Inc.

2. Disclosure may be made to the cognizant audit agency for auditing.

3. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. Disclosure may be made to qualified experts not within the definition of Department employees as prescribed in Department Regulations, 45 CFR 56.2, for opinions as a part of the application review and award administration processes.

6. Disclosure may be made to a Federal agency, in response to its request, in connection with the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

7. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

8. Disclosure may be made to a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in a system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records;

9. Disclosure may be made to the grantee institution in connection with the review of an application or performance or administration under the terms and conditions of the award, or in connection with problems that might arise in performance or administration if an award is made on a grant proposal.

10. Disclosure may be made to the profit institution's president or official responsible for signing the grant application in connection with the review or award of a grant application and in connection with the administration and performance of a grant under the terms and conditions of the awards.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

DISCLOSURES PURSUANT TO 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

The Department may disclose to consumer reporting agencies information on individuals who have failed to meet payback obligations incurred under awards made under authority of the National Research Service Awards Program (41 U.S.C. 289l–1). Information disclosed includes data identifying the individual, the amount, status and history of the obligation, and that the obligation arose from an award made under the National Research Service Awards Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, on computer tapes and discs, cards and in notebooks.

RETRIEVABILITY:

Retrieved by name and grant number.

SAFEGUARDS:

A variety of physical and procedural safeguards are implemented, as appropriate, at the various locations of this system:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to officials whose duties require use of the information. These officials include review groups, grants management staff, other extramural program staff, health scientist administrators, data processing and analysis staff and management officials with oversight responsibilities for extramural programs. Other one-time and special access is granted on an individual basis as specifically authorized by the system manager. Authorization for access to computerized files is controlled by the system manager or designated official and is granted on a need-to-know basis. Lists of authorized users are maintained.

2. *Physical Safeguards:* Secured facilities, locked rooms, locked cabinets, personnel screening; records stored in order of grant numbers which are randomly assigned.

3. *Procedural Safeguards:* Access to file rooms and files is strictly controlled by files staff or other designated officials; charge-out cards identifying

users are required for each file used; inactive records are transferred to controlled storage in Federal Records Center in a timely fashion; retrieval of records from inactive storage is controlled by the system manager or designated official and by the NIH Records Management Officer; computer files are password protected and access is actively monitored by the Computer Center to prevent abuse. Employees are given specialized training in the requirements of the Privacy Act as applied to the grants program.

These particular safeguards are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), items: 4000–B–1; 4000–B–4; 4000–C–1 and, 4600–D–1. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

See Appendix II.

NOTIFICATION PROCEDURE:

Write to official at the address specified in Appendix II to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Write to the official at the address specified in Appendix IV to obtain access to a record, and provide the same information as is required under the Notification Procedures above. Requesters should also reasonably specify the record contents being sought.

Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified in Appendix II, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information submitted by applicant; supplemented by outside reviewers and internal staff.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—System Location

National Cancer Institute, Executive Plaza South, Suite T–42, 6120 Executive Boulevard, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Westwood Building, Room 4A09, 5333 Westbard Avenue, Bethesda, MD 20892
National Library of Medicine, Building 38A, Room 5N509, 8600 Rockville Pike, Bethesda, MD 20894
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Solar Bldg., Room 4B–21, 6003 Executive Blvd., Rockville, MD 20892
National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases, Westwood Building, Room 610, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Westwood Building, Room 5A03, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Child Health and Human Development, 6100 Executive Blvd., Room 7A07, Bethesda, MD 20892
National Institute on Aging, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, Bethesda, MD 20892
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709
National Institute of General Medical Sciences, Grants Management Officer, Westwood Building, Room 953, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Federal Building, Room 10A12, 7550 Wisconsin Avenue, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Executive Plaza South, Room 400B, 6120 Executive Boulevard, Rockville, MD 20852
National Eye Institute, Building 31, Room 6A47, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Westwood Building, Room 853, 5333 Westbard Avenue, Bethesda, MD 20892
National Center for Nursing Research, Building 31, Room 5B06, 9000 Rockville Pike, Bethesda, MD 20892
Fogarty International Center, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892
Washington National Records Center, 4205 Suitland Road, Suitland, MD 20409
National Institute on Drug Abuse, Grants Management Branch, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Grants Management Branch, Room 16–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute of Mental Health, Grants Management Branch, ORM, Room 7C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix II—System Manager and Address

National Cancer Institute, Grants Management Analyst, Executive Plaza South, Suite 234, 6120 Executive Boulevard, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Chief, Grants Operations Branch, Division of Extramural Affairs, Westwood Building, Room 4A10, 5333 Westbard Avenue, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, Administrative Officer, Division of Extramural Affairs, Westwood Building, Room 7A11, Bethesda, MD 20892
National Library of Medicine, Associate Director for Extramural Programs, Building 38A, Room 5N505, 8600 Rockville Pike, Bethesda, MD 20894
National Institute of Allergy and Infectious Diseases, Chief, Grants Management Branch, DEA, Solar Bldg., Room 4B–21, 6003 Executive Blvd., Rockville, MD 20892
National Institute of Allergy and Infectious Diseases, Chief, Management Information Systems Section, FMISB, OAM, Westwood Building, Room 733, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Officer, Westwood Building, Room 407, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Disease, Grants Management Officer, Room 637, Westwood Building, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Child Health and Human Development, Chief, Office of Grants & Contracts, 6100 Executive Blvd., Room 8A01, Bethesda, MD 20892
National Institute on Aging, Grants Management Officer, Gateway Building, Room 2N–212, 7201 Wisconsin Avenue, Bethesda, MD 20892
National Institute of Dental Research, Grants Management Officer, NIDR, Westwood

Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences, Grants Management Officer, Building 2, Room 204, 104 Alexander Drive, Research Triangle Park, NC 27709
National Institute of General Medical Sciences, Grants Management Officer, NIGMS, Westwood Building, Room 953, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Grants Management Officer, Federal Building, Room 1004A, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Grants Management Officer, Executive Plaza South, Room 400B, 6120 Executive Boulevard, Rockville, MD 20852
National Center for Nursing Research, Grants Management Officer, Building 31, Room 5B06, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, Grants Management Officer, Building 31, Room 6A48, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Director, Office of Grants and Contracts Management, Westwood Building, Room 853, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center, Scientific Review Administrator, International Studies Branch, Building 31, Room B2C32, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Drug Abuse, Chief, Grants Management Branch, Room 8A–54, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Chief, Grants Management Branch, Room 16–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857
National Institute of Mental Health, Grants Management Officer, ORM, Room 7C–15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix III—Notification Procedures

National Cancer Institute. See Appendix II.
National Heart, Lung, and Blood Institute, Privacy Act Coordinator, Building 31, Room 5A08, Bethesda, MD 20892
National Library of Medicine. See Appendix II.
National Institute of Allergy and Infectious Diseases. See Appendix II.
National Institute of Diabetes and Digestive and Kidney Diseases, Administrative Officer, Building 31, Room 9A46, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Child Health and Human Development. See Appendix II.
National Institute of Aging. See Appendix II.
National Institute of Dental Research, NIDR Privacy Act Coordinator, Building 31, Room 2C–35, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Environmental Health Sciences. See Appendix II.
National Institute of General Medical Sciences. See Appendix II.
National Institute of Neurological Disorders and Stroke. See Appendix II.
National Institute on Deafness and Other Communication Disorders. See Appendix II.
National Eye Institute. See Appendix II.
National Center for Nursing Research. See Appendix II.
National Center for Research Resources. See Appendix II.
Fogarty International Center. See Appendix II.
National Institute on Drug Abuse. See Appendix II.
National Institute on Alcohol Abuse and Alcoholism. See Appendix II.
National Institute of Mental Health, Privacy Act Coordinator, Room 15–81, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

Appendix IV—Records Access Procedures

National Cancer Institute, Privacy Act Coordinator, Building 31, Room 10A30, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute. See Appendix III.
National Library of Medicine. See Appendix II.
National Institute of Allergy and Infectious Diseases, Privacy Act Coordinator, Solar Bldg., Room 4C–01, Rockville, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases. See Appendix II.
National Institute of Child Health and Human Development. See Appendix II.
National Institute on Aging. See Appendix II.
National Institute of Dental Research, Grants Management Officer, Westwood Building, Room 518, 5333 Westbard Avenue, Bethesda, MD 20892
National Institute of Environmental Health Sciences. See Appendix II.
National Institute of General Medical Sciences, Privacy Act Coordinator, Westwood Building, Room 722, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, Chief, Administrative Services Branch, Building 31, Room 8A49, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Chief, Administrative Management Branch, Building 31, Room 3C02, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, Administrative Officer, Building 31, Room 6A17, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, Privacy Act Coordinator, Westwood Building, Room 10A15, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center. See Appendix II.
National Institute on Drug Abuse. See Appendix II.
National Institute on Alcohol Abuse and Alcoholism. See Appendix II.
National Institute of Mental Health. See Appendix II.

09–25–0115

SYSTEM NAME:

Administration: Curricula Vitae of Consultants and Clinical Investigators, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Solar Bldg., Room 3A01, 6003 Executive Blvd., Bethesda, MD 20892

and

Ogden BioServices Corporation, 621A Lofstrand Lane, Rockville, MD 20850

Write to the System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants and Clinical Investigators under National Institute of Allergy and Infectious Diseases (NIAID) Investigational New Drug Applications.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a.

PURPOSE OF THE SYSTEM:

(1) To maintain a record of the investigators under Investigational New Drug (IND) applications, and

(2) To appoint consultants to the NIAID Institutional Review Board (IRB).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in books.

RETRIEVABILITY:

Retrieved by name.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain records in this system are instructed to grant regular access only to NIAID staff whose duties require the use of such information. Authorized users are located in the Clinical and Regulatory Affairs Branch, Division of Microbiology and Infectious Diseases, NIAID. Other one-time and special access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical Safeguards:* Building is locked during off-duty hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employee.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Acting Chief, Clinical and Regulatory Affairs Branch, DMID, NIAID Solar Bldg., Room 3A–01, 6003 Executive Blvd., Rockville, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Control Data Bldg., Room 4C–01, 6003 Executive Blvd., Rockville, MD 20892.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as record notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0124

SYSTEM NAME:

Administration: Pharmacology Research Associates, HHS/NIH/NIGMS

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Westwood Building, Room 919, 5333 Westbard Avenue, Bethesda, MD 20892.

Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for positions as Pharmacology Research Associates with the National Institute of General Medical Sciences (NIGMS) and current and former Pharmacology Research Associates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual application forms, addresses, telephone numbers, lists of awards received, research keywords, preceptor and institute during time of fellowship for former fellows, academic transcripts, reprints and references, curriculum vitae and salary adjustment memorandum for fellows.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 209.

PURPOSE(S) OF THE SYSTEM:

For review, award and administration of the Pharmacology Research Associate Program (PRAT).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders.

RETRIEVABILITY:

By name of applicant.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical, and procedural safeguards such as the following:

1. *Authorized Users:* Employees who maintain the system are instructed to grant access only to authorized personnel (System Manager and staff assigned to the program).

2. *Physical Safeguards:* The records are maintained in locked file cabinets when not in use and system location is locked during nonworking hours.

3. *Procedural Safeguards:* Access to files is strictly controlled by responsible

individuals who have been instructed in the Privacy Act requirements. Records are returned to the locked cabinets when not in use.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320–2(a). Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Director, PRAT Program,
Pharmacological Sciences, NIGMS,
Westwood Building Room 919,
Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to System Manager and provide the following information: applicant's name and date of application.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested, the corrective action sought. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information obtained from applicants, university registrars, and persons supplying recommendations through the PRAT Program. Salary adjustment memos from preceptors. Information on former fellows obtained from former fellows.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0126

SYSTEM NAME:

Clinical Research: National Heart, Lung, and Blood Institute Epidemiological and Biometric Studies, HHS/NIH/NHLBI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals, universities, research centers, research foundations, and coordinating centers under contract with the National Heart, Lung, and Blood Institute, and in NHLBI facilities in Bethesda, Maryland. Write to the system manager at the address below for a list of locations, including the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include (1) individuals who have been or who are presently being treated by the National Heart, Lung, and Blood Institute, for diseases or conditions of the heart, lung, blood vessels and blood; (2) individuals whose physical, genetic, social, economic, environmental, behavioral or nutritional conditions or habits are being studied in relation to the incidence of heart, lung, blood vessel and blood diseases among human beings; and (3) normal volunteers who have agreed to provide control data germane to these studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observation. The system also includes records of current addresses of study participants, photographs, fingerprints, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 412, 413 of the Public Health Service Act (42 U.S.C. 287a, 287b).

PURPOSE(S) OF THE SYSTEM:

(1) Summaries of data resulting from these studies are used by the National Heart, Lung, and Blood Institute to monitor and evaluate the incidence of the diseases or the conditions under investigation and the relationship of various factors to the occurrence of these diseases. (2) The summaries are also used for program planning and evaluation purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Referrals may be made of assignments of research investigators and project monitors to specific research projects to the Smithsonian Institution to contribute to the Smithsonian Science Information Exchange, Inc.

3. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

4. Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulation determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records.

5. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to organizations deemed qualified by the

Secretary to carry out quality assessments, medical audits or utilization review.

8. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

9. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, bound note books.

RETRIEVABILITY:

Name and/or participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to authorized researchers, physicians and their assistants whose duties require the use of such information.

2. *Physical safeguards:* Records are kept in locked file cabinets and in some instances in locked offices or guarded buildings. Locations are locked during non-working hours, and are attended at all times during working hours.

3. *Procedural safeguards:* Access to the data is controlled by the System Manager and the Project Officer. Data stored in computers is accessed through the use of key words known only to principal investigators or authorized personnel.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Epidemiology and Biometry, National Heart, Lung, and Blood Institute, Federal Building, 2C–08, 7550 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, contact: NHLBI Privacy Coordinator, Building 31, Room 5A–08, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information in writing: (1) Full name; (2) Name and location of research study; and (3) Approximate dates of enrollment.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to System Manager as indicated above. The contestor must reasonably specify in writing the record contents at issue and state the corrective action sought and the reasons for the correction. The right to contest with supporting justification. The record is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0140

SYSTEM NAME:

International Activities: International Scientific Researchers in Intramural Laboratories at the National Institutes of Health, HHS/NIH/FIC.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Fogarty International Center, Building 16A, Room 101, 9000 Rockville Pike, Bethesda, MD 20892

and

Division of Computer Research and Technology, Building 12A, Room 3061, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892

Ancillary records are located in the Office of the Associate Director for Intramural Affairs, laboratories, administrative and personnel offices where participants are assigned. Write to System Manager at the address below for the address of the Federal Records Center where records are stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Health scientists at all levels of their postdoctoral or equivalent research careers who are invited to the National Institutes of Health for further training or to conduct research in their biomedical specialties under the auspices of FIC's administration of International Activities. Most of these scientists are foreign, however some may be resident aliens or U.S. citizens.

Individuals in these categories include Visiting Associates, Visiting Scientists, Foreign Special Experts who are employees and Visiting Fellows, Guest Researchers, Exchange Scientists, International Research Fellows, Fogarty Scholars, Special Volunteers, Adjunct Scientists and Residents who are not employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

History of fellowship, employment and/or stay at NIH; education, immigration data and references. For payroll purposes, social security numbers are requested of all applicants accepted into the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 2421 and section 307 of the Public Health Service Act.

PURPOSE OF THE SYSTEM:

To document the individual's presence at the NIH, to record immigration history of the individual in order to verify continued eligibility in existing programs, and to meet requirements in the Code of Federal Regulations (8 CFR, "Aliens and Nationality," and 22 CFR, "Foreign Relations").

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Information is made available to authorized employees and agents of the U.S. Government including, but not limited to, the General Accounting Office, the Internal Revenue Service, and the FBI and Immigration and Naturalization Service, Department of Justice, for purposes of investigations, inspections and audits.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

3. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has any interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and on file cards, computer tapes, computer disks and microfilm.

RETRIEVABILITY:

By name, country of citizenship, institution, fellowship number, social security number, visa and immigration status, program category, dates of stay at NIH, NIH component, and home address.

SAFEGUARDS:

A variety of safeguards is implemented for the various sets of records included under this system according to the sensitivity of the data they contain.

1. *Authorized users:* NIH administrative and personnel staff screened by FIC staff to access information on a need-to-know basis. Only FIC staff are authorized to add, change, or delete data. Access by other employees is granted on a need-to-know basis as specifically authorized by the system manager.

2. *Physical safeguards:* The records are maintained in file cabinets in offices that are locked during off-duty hours.

3. *Procedural safeguards:* Access to files is strictly controlled by files staff. Records may be removed from files only at the request of the system manager or other authorized employees. For computerized records, access is controlled by the use of security codes known only to authorized users; access codes are changed periodically. The computer system maintains an audit record of all requests for access.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–320, which allows records to be destroyed after a maximum period of 6 years after the close of a case. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, International Services and Communications Branch, Building 16A, Room 101, Fogarty International Center, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORD ACCESS PROCEDURE:

Same as notification procedure. Requesters should also reasonably

specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official listed under notification procedure above, and reasonably identify the record, and specify the information to be contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individuals and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0142

SYSTEM NAME:

Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system will be located in hospitals and clinics, research centers and research foundations, and in facilities of the National Institute on Aging (NIA) in Bethesda, MD. They may be stored at Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies will include: (1) individuals whose physical, genetic, social, psychological, cultural, economic, environmental, behavioral, pharmacological, or nutritional conditions or habits are studied in relationship to the normal aging process and/or diseases and other normal or abnormal physical or psychological conditions of the aged, and (2) normal volunteers who are participants in such studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will consist of a variety of health, demographic, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaires, or direct observations. The system will also include records of current addresses of study participants, and correspondence from or about participants in the studies. When supplied on a voluntary basis, Social Security numbers will also be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is provided by Sections 301, Research Contracting, and 463–4, Health Research Extension Act of 1985, Pub. L. 99–158.

PURPOSE(S) OF THE SYSTEM:

The National Institute on Aging will use the data collected; (1) In research projects on (a) the health status of individuals and changes in health status over time, (b) the incidence and prevalence of certain diseases and problems of the aged in certain populations, and (c) the changes that take place as individuals age; (2) and for program planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to HHS contractors, collaborating researchers and their staffs in order to accomplish the basic research purpose of this system. The recipients will be required to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, or bound notebooks. Stored data may include textual, photographic, X-ray, or other material.

RETRIEVABILITY:

Information will be retrieved by personal identifiers such as name, code number and/or Social Security number, when this is supplied on a voluntary basis.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel,

physical and procedural safeguards such as the following:

1. *Authorized users:* Access will be limited to principal investigators, collaborating researchers and necessary support staff.

2. *Physical safeguards:* Hard copy data will be maintained in locked file cabinets. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor.

3. *Procedural safeguards:* Access to the information will be controlled directly by the Project Officer or his or her representative at remote locations, and by the system manager at NIA locations. Contractors and collaborating researchers will be notified that they are subject to the provisions of the Privacy Act, and will be required to make formal agreements to comply with these provisions.

The particular safeguards implemented in each project are developed in accordance with Chapter 45–13 and supplementing Chapter PHS hf: 45–13 of the HHS General Administration Manual and Part 6, ADP Systems Security, of the HHS Information Resources Management Manual, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Epidemiology, Demography and Biometry Program, National Institute on Aging, Gateway Building, Suite 3C309, 7201 Wisconsin Avenue, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the above address and provide the following information in writing:

1. Full name at time of participation in the study,
2. Date of birth,
3. Home address at the time of study,
4. The facility where the examination was given or where information was collected,
5. Approximate date or dates of participation,
6. Name of study, if known,
7. Current name, address and telephone number.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURE:

Contact the system manager at the above address and provide the same information as outlined under the notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the System Manager at the above address. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought and the reasons for the correction. The right to contest records is limited to information which is incomplete, irrelevant, incorrect or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information will be obtained directly from individual participants and from medical and clinical research observations, or indirectly from existing source documents such as disease registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0143

SYSTEM NAME:

Biomedical Research: Records of Subjects in Clinical, Epidemiologic and Biometric Studies of the National Institute of Allergy and Infectious Diseases, HHS/NIH/NIAID.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

At National Institutes of Health facilities in Bethesda, Maryland, and at hospitals, medical schools, universities, research institutions, commercial organizations, state agencies, and collaborating Federal agencies. Inactive records may be retired to Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Patients with infectious diseases, immunologic diseases involving adverse reactions of the body (e.g., allergic reactions) and related diseases (e.g. Acquired Immunodeficiency Disease Syndrome/AIDS), normal healthy volunteers who serve as controls for comparison with patients, relatives of patients and other individuals whose characteristics or conditions are being studied for possible connections with the occurrence of the diseases under investigation.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and epidemiological information resulting from or contained in direct observations, medical records and other histories, vital statistics reports, records on biological specimens (e.g., blood, urine, etc.), personal interviews, questionnaires, progress reports, correspondence or research findings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 241, 289a, 289c.

PURPOSE OF THE SYSTEM:

This system will be used to support: (1) Epidemiologic, clinical and biometric investigations into the causes, nature (morbidity and mortality), outcome, therapy and cost of infectious, immunologic and related diseases; and (2) Review and evaluation of the progress of these research projects, and identification of and planning for improvements or for additional research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purpose for which the records are collected. The recipients are required to protect such records from improper disclosure.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality

assessments, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosures may be made to the Department of Justice for the purpose of obtaining its advice.

5. The Department contemplates that it may contract with one or more private firms for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect to such records.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice or other appropriate Federal agency to enable that agency to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, computer-accessible forms (e.g. tapes or discs), punched cards, bound notebooks, microfilm, charts, graphs, and X-rays.

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number.

SAFEGUARDS:

1. *Authorized users:* Access to or disclosure of information is limited to collaborating researchers, contractors and NIAID employees who are involved in the conduct, support or review and evaluation of the research activities supported by this system.

2. *Physical safeguards:* Data are kept in secured areas (e.g. rooms which are locked when not in regular use, buildings with controlled access). Data stored in computer-accessible form is accessed through the use of key words known only to principal investigators or authorized personnel; all other information is stored in locked files.

3. *Procedural safeguards:* Contractors and collaborating researchers are required to comply with the provisions of the Privacy Act and with Department regulations.

These and other appropriate safeguards are implemented in each project in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Epidemiology and Biometry Branch, DMID, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3A24, Bethesda, Maryland 20892, and Chief, Epidemiology Branch, DAIDS, Room 240P, Solar Building, 6003 Executive Blvd., Rockville, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NIAID Privacy Act Coordinator, Solar Bldg., Room 4C–01, 6003 Executive Blvd., Rockville, MD 20892, and provide the following information:

1. System name,
2. Complete name and home address at the time of the study,
3. Birth date,
4. Facility conducting study,
5. Disease type (if known),
6. Approximate dates of enrollment in the research study.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record

shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, from physicians, research investigators and other collaborating persons and from medical records and clinical research observations at hospitals, HHS agencies, universities, medical schools, research institutions, commercial institutions, state agencies, collaborating Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0151

SYSTEM NAME:

Administration: Public Health Service ALERT Records Concerning Individuals Under Investigation for Possible Misconduct in Science or Subject to Sanctions for Such Misconduct, HHS/PHS/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Science Research, Public Health Service (PHS), 5515 Security Lane, Suite 700, Rockville, MD 20852.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects may include (1) researchers currently or formerly employed by the Federal Government; (2) individuals being considered for appointment to Public Health Service (PHS) advisory committees; (3) investigators on research grants, fellowships, cooperative agreements, or contracts awarded by any PHS agency, ("Investigators" may include principal investigators, co-investigators, program directors, trainees, recipients of career awards or fellowships, or other individuals who conduct or are responsible for research or research training funded by PHS.); (4) research investigators, such as guest workers, not employed by PHS but who conduct research in PHS facilities or are closely associated with research conducted by PHS; (5) other individuals, such as subgrantees, subcontractors or assistants on research or research training grants, contracts or cooperative agreements, who by training, experience, occupation or other qualifications are potential candidates for research or research training grants, contracts, cooperative agreements or other benefits.

Such individuals would be subjects of records in this system if they fall within either of the following two categories: (1) Subjects of formal investigations for scientific misconduct or serious misappropriation of Federal research funds, if the PHS Agency-level/Staff Office Misconduct Policy Officer has determined that the alleged misconduct is serious enough, or that the investigation has produced sufficient information, to warrant attention when a PHS agency considers awarding research or research training funds or other benefits to such individuals; (2) Subjects of sanctions imposed as a result of determinations that scientific misconduct or serious misappropriation of Federal research funds has occurred. Such sanctions include (a) actions affecting eligibility for research and training awards, such as special conditions for receipt of an award, suspension or termination of an award, or debarment of an individual; (b) actions affecting eligibility for appointment to a committee which advises PHS; (c) special restrictions on regulated research, such as disqualification from eligibility to use investigational drugs or special conditions for protection of human research subjects; and (d) termination of employment or other disciplinary action against an employee of PHS.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to investigations or findings of misconduct in science and to actions that PHS has taken in connection with such investigations or findings. Misconduct in science is defined as (1) the serious deviation, such as fabrication, falsification, or plagiarism, from accepted practices in proposing, conducting and reporting the results of research; or (2) the material failure to comply with Federal requirements affecting specific aspects of the conduct of research, e.g., the protection of human subjects and the welfare of laboratory animals.

In addition to records relating to misconduct in science, the system includes records relating to investigations or findings of serious misappropriation of Federal research funds—e.g., diversion of such funds to personal use. It does not include records documenting normal business transactions between a PHS agency and an awardee institution, except to the extent that such records are directly relevant to consideration of the fitness of an individual to receive a PHS award or other benefit.

The system consists of two subsystems which contain the following types of records: (1) Records on pending or ongoing investigations identifying the alleged misconduct; the individual and/or institution under investigation; any present, past or pending research, and/or research training awards; PHS agencies or offices involved, and the organization responsible for the investigation; (2) Records summarizing sanctions imposed because of a finding of misconduct, which adversely affect the individual's eligibility for research or research training awards or other benefits for a specified period of time. Either subsystem may contain responses from subject individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the legislation which authorizes PHS to make awards for biomedical research and research training, and from PHS's concomitant responsibility to assure both that funds disbursed under awards are spent for authorized purposes and that recipients of such funds conform to all appropriate laws and regulations. (Public Health Service Act: 42 U.S.C. 241, 242b, 242c, 242l, 242m, 247c, 281–289h, 290aa–9, 290bb, 290bb–1, 290cc, 300a–2, 300b–1–b–3, 300c–12, 300z–7, as these provisions relate to awards for biomedical research and research training; Occupational Safety and Health Act: 29 U.S.C. 669).

PURPOSE OF THE SYSTEM:

This system of records enables PHS agencies to discharge effectively their responsibilities in the award and administration of research and training grants, cooperative agreements and contracts, while protecting the privacy

and other rights of individuals under investigation or sanction for scientific misconduct or misappropriation of funds. The ALERT system is used to collect, control and disseminate to PHS agency officials on a need-to-know basis information that an individual (1) is under investigation for possible misconduct in science or misappropriation of funds, or a decision has been made to undertake such an investigation; or (2) has been subjected to a sanction at the conclusion of an investigation for misconduct or misappropriation of funds.

Specifically, (1) PHS records the existence of such sanctions in the system so that PHS agencies can track and implement the sanctions, for example by refusing to accept an application or proposal from a debarred person. In addition, PHS informs members of technical merit review groups of actions taken if the disclosure bears directly on the scientific merit of an application or proposal under consideration or the fiscal integrity of the investigator or applicant, or if necessary to ensure an unbiased review by providing an accurate account of the case, for example, when information concerning the conduct investigated has been disclosed by other sources, such as the press or other communications media. PHS does not use this system to make decisions on imposition of sanctions. (2) When investigative findings fail to confirm an instance of misconduct or show that any misconduct was not of sufficient importance to warrant imposing sanctions, leading to a decision not to impose any sanctions, (a) the individual's name is removed from the ALERT system of records and the individual is notified in writing; (b) responsible PHS agency officials are notified of the outcome; (c) if any interim administrative sanctions had been imposed, they are lifted; and (d) if a competing application or proposal from the individual is pending or anticipated in the near future, the Misconduct Policy Officer of the relevant agency consults with officials responsible for review of the application or proposal to identify and resolve any concerns that might affect the objectivity of the review. For example, technical merit review groups would be informed of the outcome of the investigation if there were reason to believe that reviewers had received incomplete or misleading information about the case. (3) PHS agencies use ALERT system records on pending or ongoing investigations to make informed decisions on appropriate actions regarding awards of research, research training and related activities or other benefits to individuals under investigation as follows: (a) PHS agency officials responsible for the award of research funds, in consultation with the PHS agency-level Misconduct Policy Officer, weigh information on investigations in deciding whether to take interim administrative action, such as delaying, restricting or denying award of research funds. Any interim action is taken with a view towards protecting the rights of all parties involved and minimizing disruption to an ongoing project, the awardee institution, and the activities of those involved in the project. (b) To obtain independent advice on appropriate actions with respect to potential competing awards to individuals or organizations under investigation, these officials or their designees inform the members of the appropriate National Advisory Council or Board, advisory bodies legally established to advise PHS on funding of research projects, of the existence and status of an investigation. Such disclosure is made in closed session when the Council or Board is considering the funding of research by the individual or institution. To avoid influencing Technical Reviews, PHS will not inform members of scientific review groups about instances of possible misconduct or ongoing investigations. However, if a given case has received such extensive publicity that review of an application or proposal may be compromised, the responsible PHS agency official may defer the review or inform the reviewers of the status of PHS's activities with respect to the possible misconduct. (4) The PHS Committee on Misconduct in Science, and individual PHS Agency/Staff Office Misconduct Policy Officers, review ALERT records in order to inform appropriate officials within their organizations who are responsible for deciding on the actions described in other items of this section. (5) PHS Committee Management Officers may review records in the system concerning candidates for appointment to advisory committees in order to make informed decisions about making, delaying or denying appointments. (6) Upon request, the system manager may disclose information to PHS agency officials who are considering hiring a subject individual. (7) When a research activity within PHS (i.e., intramural research activity) is the subject of an investigation by a PHS regulatory agency, information on that investigation in this system may be communicated to the PHS intramural officials responsible for the research activity.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. PHS may notify responsible officials of awardee institutions or organizations when, in connection with an investigation or finding of misconduct by an individual employed by or affiliated with the institution or organization, a PHS agency takes an action affecting research and research training awards to the institution or organization. Information disclosed will be limited to the name of the subject individual, description of the action and the reasons for it.

2. Information may be disclosed to qualified experts not within the definition of Department employees as prescribed in Department Regulations to the extent the information is pertinent to the review of applications by those experts.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. Disclosure may be made from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) HHS employee in his or her individual capacity or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders.

RETRIEVABILITY:

Records are retrieved by name of the individual under investigation or subject to sanction.

SAFEGUARDS:

1. *Authorized users:* Records are available only to the system manager, PHS Agency-level/Staff Office Misconduct Policy Officers, the Deputy Director for Extramural Research and Training, NIH, and other responsible PHS agency officials considering the award of funds for research, research training or related activities or other benefits to a subject individual or institution, the appointment of a subject individual to an advisory committee, the hiring of a subject individual, or the management of a PHS agency research activity under investigation. Any disclosure to other individuals must be authorized by the system manager.

2. *Procedural safeguards:* Access to records is strictly controlled by the system manager and the officials specified under "Authorized Users." Individuals who receive disclosures from this system are informed that the information is confidential. They are instructed to address all questions and inquiries from any party either to the system manager or to the appropriate Misconduct Policy Officer for reply. Disclosures to Boards, Councils or review groups are made in sessions which are closed to the public. In addition, PHS staff and others not directly responsible for a potential award may be barred when a Board or Council considers an ALERT case, if they would not have been informed about the case otherwise. Only the PHS Committee on Misconduct in Science or individual PHS agency-level Misconduct Policy Officers, acting on the advice of the system manager, may authorize additions, alterations or deletion of records in this system.

3. *Physical safeguards:* Records are kept in locked file cabinets in offices which are locked when not attended. Special measures, commensurate with the sensitivity of the records, are taken to prevent unauthorized copying or disclosure of records.

These practices are in compliance with the standards of chapter 45–13 of the HHS General Administration Manual and supplementary chapter PHS hf: 45–13.

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3, which allows records on an investigation in progress to be retained until the investigation is completed. If the investigation results in a determination that no misconduct occurred, or that any misconduct was not significant enough to warrant official sanction, the record relating to that investigation is destroyed. If an investigation results in official sanction, a record of such sanction is maintained for the duration of the sanction and is then destroyed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Office of Science Research, Public Health Service, 5515 Security Lane, Suite 700, Rockville, MD 20852.

NOTIFICATION PROCEDURE:

Individuals are routinely notified in writing when they become the subject of a record in this system, unless a law enforcement agency has instructed PHS not to do so. Subject individuals are also informed routinely when their records are deleted from the system. Individuals may request notification by writing to the system manager at the address above; provide your full name and state that the inquiry concerns Privacy Act system of records number 09–25–0151. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a fine of not more than five thousand dollars.

RECORD ACCESS PROCEDURE:

Individuals may write to the system manager at the address above and provide the same information as required for notification. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the system manager and reasonably identify the record and the information being contested; and state your reasons for requesting the change, along with supporting information to show that the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information in these records is obtained from subject individuals, awardee institutions or organizations, PHS agencies and organizations responsible for investigations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0152

SYSTEM NAME:

Biomedical Research: Records of Subjects in National Institute of Dental Research Contracted Epidemiological and Biometric Studies, HHS/NIH/NIDR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are collected by contractors and are located in hospitals and clinics; research centers; educational institutions; commercial; local, State and Federal government agencies; and in National Institute of Dental Research (NIDR) facilities. Inactive records may be stored at Federal Records Centers. A list of locations and contracts is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary participants in epidemiological and biometric studies sponsored by NIDR, including adults and minors, both males and females, with known or suspected diseases or disorders of the teeth and supporting structures, as well as normal or non-suspect individuals in control or study groups for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of medical and dental records and information resulting from personal interviews, questionnaires, or direct observation. The system may also include current addresses of study participants, radiographs, records on biological specimens (e.g., teeth, plaque, etc.), study models, computerized epidemiological data and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 301, 401, 405 and 453 of the Public Health Service Act (42 U.S.C. 241, 281, 284, 285h). These sections establish the National Institute of Dental Research and authorize the conduct and support of dental and oral research and related activities.

PURPOSE(S) OF THE SYSTEM:

This system is used to; (1) Support research on diseases and disorders of the oral cavity (teeth and their supporting structures); their causes and

treatment; the incidence and prevalence of these diseases and disorders; and familial, demographic and behavioral factors related to their causes and treatment; (2) Provide data for program review, evaluation, planning, and administrative accountability.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to maintain Privacy Act safeguards with regards to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose, (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. The Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to maintain Privacy Act safeguards with respect records.

5. Disclosure may be made to a congressional office from the record to an individual in response to an inquiry from the congressional office made at the request of the individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in these systems are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NIDR project officer; and NIDR employees whose duties require the use of such information. Access to the data controlled by the Project Director, the NIDR Project Officer, and/or the System Manager.

2. *Physical safeguards:* Records are stored in locked files or secured areas. Computer terminals are in secured areas.

3. *Procedural safeguards:* Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need. Data stored in computers is accessed through the use of keywords known only to the principal investigators or authorized personnel. These keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–4, which does not allow records to be destroyed. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESSES:

Chief, Contract Management Section, Extramural Program, National Institute of Dental Research, Westwood Building, Room 533, 5333 Westbard Avenue, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

Write to: Privacy Act Coordinator, National Institute of Dental Research, 9000 Rockville Pike, Building 31, Room 2C–35, Bethesda, MD 20892.

and provide the following information in writing:

1. Full name at time of participation in the study.

2. Name and description of the study.

3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written

certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the records, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above. The contestor must reasonably identify the record, specify in writing the information being contested, and state the corrective action sought, and the reason(s) for the corrective action, with supporting justification. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants and from medical/dental and clinical research observations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0153

SYSTEM NAME:

Biomedical Research: Records of Subjects in Biomedical and Behavioral Studies of Child Health and Human Development, HHS/NIH/NICHD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system are located in hospitals and clinics, research centers, educational institutions, commercial organizations, local and State agencies, and other Executive Branch agencies of the Federal Government under contract to the National Institute of Child Health and Human Development (NICHD), and in NICHD facilities in Bethesda, Maryland. Inactive records may be stored at Federal Records Centers. A list of specific locations and contractors is available upon request from the System Manager, whose address is listed below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies include adults and children (a) who are presently or have been treated by the NICHD, (b) whose physical, genetic, social, economic, environmental, behavioral or nutritional conditions or habits are being studied by the NICHD, or (c) normal volunteers who have agreed to provide control data for purposes of comparison.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of clinical, medical, and statistical information collected in biomedical and behavioral research studies, such as medical histories, vital statistics, personal interviews, questionnaires, current addresses of study participants, radiographs, records on biological specimens, study models, and correspondence from or about participants in these studies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301, Research and Investigation, and Section 441, National Institute of Child Health and Human Development, of the Public Health Service Act as amended (42 U.S.C. 241, 298d).

PURPOSE(S) OF THE SYSTEM:

This system is used: (1) For program review, evaluation, planning, and administrative management for research on child health and human development; (2) to monitor the incidence, prevalence or development of the disease, condition, behavior, or health status under investigation; (3) to determine the relation of various factors (e.g., social, economic, environmental, physical, and medical) to the occurrence of the disease, condition, development, behavior, or health status under investigation; (4) to identify abnormal disease, condition, or health status and inform the Centers for Disease Control (CDC) or the Food and Drug Administration (FDA) of the existence of such conditions. CDC uses this information in fulfilling its congressionally mandated responsibility for the monitoring of disease and prevention of epidemics. FDA uses this information in carrying out its congressional mandate for controlling certain potentially harmful products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff for the purpose of analyzing data and preparing scientific reports and articles in order to accomplish the research purpose for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. Certain diseases and conditions, including infectious diseases, may be reported to appropriate representatives of State or Federal Government as required by State or Federal law.

5. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information,

and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. In the event of litigation where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; for example, in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, microfilm, magnetic tapes or disks, punched cards, or bound notebooks.

RETRIEVABILITY:

Information is retrieved by name and/or a participant identification number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* Employees who maintain records in this system are instructed to grant regular access only to contractor personnel; consultants to the contractor; the NICHD project officer; and NICHD employees whose duties require the use of such information. One time and special access to the data is controlled by the System Manager, the NICHD Project Officer, and the Contract and/or Project Director.

2. *Physical safeguards:* Records are stored in locked files or secured areas. Computer terminals are in secured areas.

3. *Procedural safeguards:* Names and other identifying particulars are deleted when data from original records is encoded for analysis. Encoded data is indexed by code numbers. Tables linking these code numbers with actual identifiers are maintained separately. Code numbers and identifiers are linked only if there is a specific need, such as alerting the volunteer subjects to any findings in the study that might affect their health. Data stored in computers is accessed through the use of passwords/keywords known only to the principal investigators or authorized personnel. These passwords/keywords are changed frequently.

The particular safeguards implemented in each project will be developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS hf: 45–13; Part 6, "ADP Systems Security," of the HHS ADP Systems Manual, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Chief, Contracts Management Branch, NICHD, Executive Plaza North, Room 7A07, 6100 Executive Blvd., North Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to: NICHD Privacy Act Coordinator, Executive Plaza North, Room 4A01B, 6100 Executive Blvd., North Bethesda, MD 20892 and provide the following information in writing:

1. Full name and address at time of participation in the study.

2. Name or description of the study.

3. Location and approximate dates of participation.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, the medical record of a child or incompetent person shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify his or her relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants, medical and clinical research observations, and other Federal agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0154

SYSTEM NAME:

Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI; and (2) Women's Health Initiative (WHI) Studies, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, Executive Plaza North, room 343K, 6130 Executive Blvd., Bethesda, MD 20892,
and
National Institutes of Health, Building 12, 9000 Rockville Pike, Bethesda, MD 20892,
and
National Institutes of Health, Building 1, room 260, 9000 Rockville Pike, Bethesda, MD 20892,
and at hospitals, medical schools, universities, research institutions, commercial organizations, collaborating State and Federal Government agencies, and Federal Records Centers. Write to system manager at the address below for the address of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NCI: Adults and children in the following categories: Patients with cancer; persons for whom cancer risk can potentially be lowered; and persons without signs or symptoms who may be identified through screening and detection methods as having cancer or being at increased risk of developing cancer. For certain types of epidemiologic studies, e.g., case-control studies, NCI may also collect, for purposes of comparison, records on other persons. These comparison groups could include normal individuals (e.g., family members or neighborhood controls), or other patient groups (e.g., hospital controls) who do not have cancer or are not at a particularly high risk of developing cancer. WHI: Women for whom risk of cancer and/or other chronic disease may potentially be lowered. Women without signs or symptoms of chronic disease who may be identified through screening and detection methods as being at risk for serious chronic ailments. WHI may also collect, for purposes of comparison, longitudinal records on other women for whom no added disease risk has been identified.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information identifying participants (such as name, address, Social Security Number), medical records, progress reports, correspondence, epidemiological data, and records on biological specimens (e.g., blood, tumors, urine, etc).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

NCI: Sections 301, Research and Investigation, 405, Appointment and Authority of the Directors of the National Research Institutes, and Title IV, Part C, Subpart 1—National Cancer Institute, of the Public Health Service (PHS) Act (42 U.S.C. 241, 284 and 285–285a–5). WHI: 42 U.S.C. 241 and Section 402, Appointment and Authority of Director of NIH, of the PHS (42 U.S.C. 282).

PURPOSE(S) OF THE SYSTEM:

Records in this system will be used, (1) to evaluate cancer and other chronic disease control programs, including prevention, screening, detection, diagnosis, treatment, rehabilitation, and continuing care; (2) to identify characteristics of persons who may be particularly susceptible to environmental or occupational factors for substances which cause or prevent cancer and/or other chronic diseases; (3) to determine risk factors or substances which cause or prevent cancer and/or other chronic diseases, and the ways in which they do so; (4) to evaluate statistical and epidemiological methodologies for risk factor assessment, clinical trials, cancer control studies, and the study of the natural history of cancers and/or other chronic diseases; (5) to plan for, administer, and review research activities as described in the above purposes; (6) information from this system may be reported to the Food and Drug Administration (FDA) as a condition for approval of clinical investigations of new drugs, or to report adverse effects of drugs so that FDA can make informed decisions on authorizing use of such drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors, grantees and collaborating researchers and their staff in order to accomplish the research purposes for which the records are collected. The recipients are required to comply with the requirements of the Privacy Act with respect to such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. The Department contemplates that it may contract with a private firm for the purpose of collating, analyzing, aggregating or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

4. A record may be disclosed for a research purpose, when the Department: (A) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (B) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (C) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (a) in emergency circumstances affecting the health or safety of any individual, (b) for use in another research project, under these same conditions, and with written authorization of the Department, (c) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (d) when required by law; (D) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

5. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

6. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the

Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example, in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfilm, charts, graphs, computer tapes, disks, and punch cards.

RETRIEVABILITY:

By name, Social Security Number when supplied voluntarily or contained in existing records used in projects under this system, or other identifying number.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

1. *Authorized users:* NCI and WHI employees who maintain records in this system are instructed to grant regular access only to physicians, scientists, and support staff of the National Cancer Institute and Women's Health Initiative, respectively, or their contractors, grantees or collaborators who need such information in order to contribute to the research or administrative purposes of the system. The system managers specifically authorize one-time and special access by others on a need-to-know basis consistent with the purposes and routine uses of the system.

2. *Physical safeguards:* Records are kept in limited access areas. Offices and records storage locations are locked during off-duty hours. Input data for computer files is coded to avoid individual identification. Where possible, information on individual identities is kept separate from data used for analysis.

3. *Procedural safeguards:* Access to manual files is granted only to authorized personnel, as described above. Access to computer files is controlled through security codes known only to authorized users. Names and other details necessary to identify individuals are not included in data files used for analysis. These files are indexed by code numbers. Code numbers and complete identifiers are linked only if there is a specific need, such as for data verification.

Contractors, grantees or collaborators who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act requirements are specifically included in contracts and in agreements with grantees or collaborators participating in research activities supported by this system. HHS project director, contract officers and project officers oversee compliance with these requirements.

The particular safeguards implemented at each site are developed in accordance with Chapter 45–13, "Safeguarding Records Contained in Systems of Records," of the HHS General Administration Manual, supplementary Chapter PHS.hf: 45–13, and Part 6, "ADP Systems Security", of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 3000–G–3, which allows records to be kept as long as they are useful in scientific research. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESS:

Associate Director, Surveillance Program, DCPC, National Cancer Institute, Executive Plaza North, Room 343K, 6130 Executive Blvd., Bethesda, MD 20892

and

Director, Women's Health Initiative, Office of the Director, National Institutes of Health, Building 1, Room 260, 9000 Rockville Pike, Bethesda, MD 20892

NOTIFICATION PROCEDURE:

To determine if a file exists, write to the appropriate system manager and provide the following information:

a. System name: "Biomedical Research Records of Subjects: (1) Cancer Studies of the Division of Cancer Prevention and Control, HHS/NIH/NCI; and (2) Women's Health Initiative Studies, HHS/NIH/OD."

b. Complete name at time of participation;

c. Facility and home address at the time of participation;

d. In some cases, where records are retrieved by an identifying number, such as the Social Security Number or Hospital Identification Number, it may be necessary to provide that number. In some cases, to ensure proper identification it may be necessary to provide date(s) of participation (if known), birth date, disease type (if known), and study name and location (if known).

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a maximum fine of five thousand dollars.

Individuals seeking notification of or access to medical records should designate a representative (including address) who may be a physician, other health professional, or other responsible individual, who would be willing to review the record and inform the subject individual of its contents, at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Write to the appropriate system manager and provide the same information as requested under the notification procedure above. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the appropriate system manager, identify the record, and specify the information contested. State the corrective action sought and your reasons for requesting the correction,

and provide supporting information to show that the record is inaccurate, incomplete, irrelevant, untimely, or unnecessary. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

HHS agencies, institutions under contract to the U.S. Government, such as universities, medical schools, hospitals, research institutions, commercial institutions, state agencies, other U.S. Government agencies, patients and normal volunteers, physicians, research investigators and other collaborating personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0156

SYSTEM NAME:

Records of Participants in Programs and Respondents in Surveys Used to Evaluate Programs of the National Institutes of Health, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located either in the organizations responsible for conducting evaluations or at the sites of programs or activities under evaluation. Locations include National Institutes of Health (NIH) facilities in Bethesda, Maryland, or facilities of contractors of the NIH. Write to the appropriate System Manager below for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system are those who provide information or opinions that are useful in evaluating programs or activities of the NIH, other persons who have participated in or benefitted from NIH programs or activities; or other persons included in evaluation studies for purposes of comparison. Such individuals may include (1) participants in research studies; (2) applicants for and recipients of grants, fellowships, traineeships or other awards; (3) employees, experts and consultants; (4) members of advisory committees; (5) other researchers, health care professionals, or individuals who have or are at risk of developing diseases or conditions studied by NIH; (6) persons who provide feedback about the value or usefulness of information they receive about NIH programs, activities or research results; (7) persons who have received Doctorate level degrees from U.S. institutions; (8) persons who have worked or studied at U.S. institutions that receive(d) institutional support from NIH.

CATEGORIES OF RECORDS IN THE SYSTEM:

This umbrella system of records covers a varying number of separate sets of records used in different evaluation studies. The categories of records in each set depend on the type of program being evaluated and the specific purpose of the evaluation. In general, the records contain two types of information: (1) Information identifying subject individuals, and (2) information which enables NIH to evaluate its programs and services.

(1) Identifying information usually consists of a name and address, but it might also include a patient identification number, grant number, Social Security Number, or other identifying number as appropriate to the particular group included in an evaluation study.

(2) Information used for evaluation varies according to the program evaluated. Categories of evaluative information include personal data and medical data on participants in clinical and research programs; personal data, publications, professional achievements and career history of researchers; and opinions and other information received directly from individuals in evaluation surveys and studies of NIH programs.

The system does not include any master list, index or other central means of identifying all individuals whose records are included in the various sets of records covered by the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for this system comes from the authorities regarding the establishment of the National Institutes of Health, its general authority to conduct and fund research and to provide training assistance, and its general authority to maintain records in connection with these and its other functions (42 U.S.C. 203, 241, 2891–1 and 44 U.S.C. 3101).

PURPOSE OF THE SYSTEM:

This system supports evaluation of the policies, programs, organization, methods, materials, activities or services used by NIH in fulfilling its legislated mandate for (1) conduct and support of biomedical research into the causes, prevention and cure of diseases; (2) support for training of research investigators; (3) communication of biomedical information.

This system is not used to make any determination affecting the rights, benefits or privileges of any individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to HHS contractors and collaborating researchers, organizations, and State and local officials for the purpose of conducting evaluation studies or collecting, aggregating, processing or analyzing records used in evaluation studies. The recipients are required to protect the confidentiality of such records.

2. Disclosure may be made to organizations deemed qualified by the Secretary to carry out quality assessments, medical audits or utilization review.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

4. The Department may disclose information from this system of records to the Department of Justice, to court or other tribunal, or to another party before such tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, bound notebooks, or computer-accessible media (e.g., magnetic tapes or discs).

RETRIEVABILITY:

Information is retrieved by name and/or participant identification number within each evaluation study. There is no central collection of records in this system, and no central means of

identifying individuals whose records are included in the separate sets of records that are maintained for particular evaluation studies.

SAFEGUARDS:

A variety of safeguards are implemented for the various sets of records in this system according to the sensitivity of the data each set contains. Information already in the public domain, such as titles and dates of publications, is not restricted. However, sensitive information, such as personal or medical history or individually identified opinions, is protected according to its level of sensitivity. Records derived from other systems of records will be safeguarded at a level at least as stringent as that required in the original systems. Minimal safeguards for the protection of information which is not available to the general public include the following:

1. *Authorized users:* Regular access to information in a given set of records is limited to NIH or to contractor employees who are conducting, reviewing or contributing to a specific evaluation study. Other access is granted only on a case-by-case basis, consistent with the restrictions required by the Privacy Act (e.g., when disclosure is required by the Freedom of Information Act), as authorized by the system manager or designated responsible official.

2. *Physical safeguards:* Records are stored in closed or locked containers, in areas which are not accessible to unauthorized users, and in facilities which are locked when not in use. Records collected in each evaluation project are maintained separately from those of other projects. Sensitive records are not left exposed to unauthorized persons at any time. Sensitive data in machine-readable form may be encrypted.

3. *Procedural safeguards:* Access to records is controlled by responsible employees and is granted only to authorized individuals whose identities are properly verified. Data stored in mainframe computers is accessed only through the use of keywords known only to authorized personnel. When personal computers are used, magnetic media (e.g. diskettes) are protected as under Physical Safeguards. When data is stored within a personal computer (i.e., on a "hard disk"), the machine itself is treated as though it were a record, or records, under Physical Safeguards. Contracts for operation of this system of records require protection of the records in accordance with these safeguards; NIH project and contracting officers monitor contractor compliance.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–C–2. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGERS AND ADDRESSES:

See Appendix 1.

Policy coordination for this system is provided by: Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, National Institutes of Health, Building 31, Room 4B25, 9000 Rockville Pike, Bethesda, MD 20892.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the official of the organization responsible for the evaluation, as listed in Appendix 2. If you are not certain which component of NIH was responsible for the evaluation study, or if you believe there are records about you in several components of NIH, write to: NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20892.

Requesters must provide the following information:

1. Full name, and name(s) used while studying or employed;

2. Name and location of the evaluation study or other NIH program in which the requester participated or the institution at which the requester was a student or employee, if applicable;

3. Approximate dates of participation, matriculation or employment, if applicable.

The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing, a responsible representative, who may be a physician, other health professional, or other responsible individual, who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Write to the official specified under notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Information contained in these records is obtained directly from individual participants; from systems of records 09–25–0036, "Grants: IMPAC (Grants/Contract Information), HHS/NIH/DRG;" 09–25–0112, "Grants: Research, Research Training, Fellowship and Construction Applications and Awards, HHS/NIH/OD"; NSF–6, "Doctorate Record File", NSF–43, "Doctorate Work History File" (previously entitled "NSF–43, "Roster and Survey of Doctorate Holders in The United States" and other records maintained by the operating programs of NIH; the National Academy of Sciences, professional associations such as the AAMC and ADA, and other contractors; grantees or collaborating researchers; or publicly available sources such as bibliographies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—System Managers

National Institutes Health, Office of the Director, Director, Division of Planning and Evaluation, Office of Science Policy and Legislation, Building 31, Room 4B25, 9000 Rockville Pike, Bethesda, MD 20892
National Institutes Health, Office of the Director, Director, Division of Personnel Management, Building 1, Room B1–60, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute (NHLBI), Director, Office of Program Planning & Evaluation, Building 31, Room 5A03, Bethesda, MD 20892
National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, Room 2S18, Bethesda, MD 20894
National Eye Institute (NEI), Associate Director, Office of Science Policy and Legislation, Building 31, Room 6A27, Bethesda, MD 20892
National Cancer Institute (NCI), Public Health Educator, OCC, NCI, National Institutes of Health, Building 31, Room 4B43, Bethesda, MD 20892
National Institute on Aging (NIA), Chief, Office of Planning, Analysis, Technical Information and Evaluation, Federal Building, Room 6A09, 7550 Wisconsin Avenue, Bethesda, MD 20892
National Institute of Allergy and Infectious Diseases (NIAID), Chief, Evaluation and Reporting Section, Policy Analysis and Legislation Branch, Office of Administration Management, Building 31, Room 7A52, Bethesda, MD 20892
National Institute of Child Health and Human Development (NICHD), Chief, Office of Science Policy and Analysis, Building 31, Room 2A10, Bethesda, MD 20892
National Institute on Deafness and Other Communication Disorders, Chief, Program Planning and Health Reports Branch, Building 31, Room 3C35, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Dental Research (NIDR), Chief, Office of Planning Evaluation, and Communications, Building 31, Room 2C36, Bethesda, MD 20892
National Institute of Environmental Health Sciences (NIEHS) Program Analyst, Office of Program Planning and Evaluation, P.O. Box 12233, Research Triangle Park, N.C. 27709
National Institute of General Medical Sciences (NIGMS), Chief, Office of Program Analysis, Westwood Building, Room 934, 5333 Westbard Avenue, Bethesda, MD 20892
Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, Room B2C32, Bethesda, MD 20892
Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892
National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, Westwood Building, Room 8A03, Bethesda, MD 20892
National Center for Nursing Research (NCNR), Chief, Office of Planning, Analysis and Evaluation, Building 31, Room 5B13, Bethesda, MD 20892
National Institute of Mental Health, Associate Director, Office of Program Planning and Science Policy, Parklawn Building, Room 7C–06, 5600 Fishers Lane, Rockville, MD 20857

Appendix 2—Notification and Access Officials

NIH, Office of the Director, Associate Director for Science, Policy and Legislation, Building 1, Room 137, 9000 Rockville Pike, Bethesda, MD 20892
National Institutes Health, Office of the Director, Director, Division of Personnel Management, Building 1, Room B1–60, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute (NHLBI), Privacy Act Coordinator, Building 31, Room 5A29, Bethesda, MD 20892
National Library of Medicine (NLM), Assistant Director for Planning and Evaluation, Building 38, Room 2S18, Bethesda, MD 20894
National Eye Institute (NEI), Executive Officer, Building 31, Room 6A25, Bethesda, MD 20892
Fogarty International Center (FIC), National Institutes of Health, Assistant Director for Planning, Evaluation and Public Affairs, Building 31, Room B2C32, Bethesda, MD 20892
Division of Research Grants (DRG), Assistant Director for Special Projects, Westwood Building, Room 457, 5333 Westbard Avenue, Bethesda, MD 20892
National Center for Research Resources (NCRR), Evaluation Officer, Office of Science Policy, NIH, Westwood Building, Room 8A03, Bethesda, MD 20892
National Cancer Institute, Privacy Act Coordinator, National Institutes of Health, Building 31, Room 10A30, Bethesda, MD 20892
National Institute of Mental Health, Privacy Act Coordinator, Parklawn Building, Room 15–81, 5600 Fishers Lane, Rockville, MD 20857

09–25–0158

SYSTEM NAME:

Administration: Records of Applicants and Awardees of the NIH Intramural Research Training Awards Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Associate Director for Intramural Affairs, National Institutes of Health, Building 1, Room 140, 9000 Rockville Pike, Bethesda, MD 20892
and
Office of Education, Building 10, Room 1C125, 9000 Rockville Pike, Bethesda, MD 20892,

and at locations in each of the intramural offices and laboratories Mere the Intramural Research Training Awards (IRTA) Fellow is located and assigned, including the respective Scientific Director's office, the administrative and personnel offices, and in Division of Personnel Management branches responsible for administering the IRTA Program.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for IRTA Fellowships, current IRTA Fellows, and former IRTA Fellows.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to education and training, employment history, scientific publications; research goals; letters of reference; and personal information such as name, date of birth, Social Security number, home address and citizenship; and information related to fellowship awards such as stipend levels, training assignments, training expenses and travel allowances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 USC 284(b)(1)(C), 286b–3, and 287c–1 authorizes PHS to make awards for biomedical research and research training.

PURPOSE(S) OF THE SYSTEM:

Records in this system are used to determine individuals' eligibility and evaluate their qualifications for IRTA Fellowships; to document the basis for management actions relating to Fellowships that are awarded; and to provide data for program evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to the Office of Personnel Management for evaluation of NIH Personnel programs.

2. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the written request of that individual.

3. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any

of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. Disclosure may be made to a Federal, State or local agency maintaining civil, criminal or other pertinent records, such as current licenses, if necessary to obtain a record relevant to an agency decision concerning the selection or retention of a fellow.

5. Disclosure may be made to a Federal agency, in response to its request, in connection with hiring or retention of an employee, the issuance of a security clearance, an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, and on magnetic tapes and disks.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or institute list number.

SAFEGUARDS:

1. *Authorized users:* Access is granted only to NIH scientists, administrative office staff, personnel staff and financial management staff directly involved in the administration of the IRTA Program.

2. *Physical safeguards:* File folders are kept in locked drawers or locked rooms when system personnel are not present.

3. *Procedural safeguards:* Access to file folders is controlled by system personnel. Records may be removed from the files only with the approval of the system manager or other authorized employees. Data stored in the automated system is accessed through the use of keywords known only to authorized personnel.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and Part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 4000–E–3. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER AND ADDRESSES:

Associate Director for Intramural Affairs, NIH, Building I, Room 103, 9000 Rockville Pike, Bethesda, Maryland 20892

NOTIFICATION PROCEDURE:

Write to the System Manager to determine if a record exists. The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine.

RECORDS ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Write to the official specified under the notification procedures above, and reasonably identify the record and specify the information being contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is untimely, incomplete, irrelevant or inaccurate. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Applicants, persons and institutions supplying references.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0161

SYSTEM NAME:

Administration: NIH Consultant File, HHS/NIH/DRG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

This system of records is an umbrella system comprising separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH.

Division of Computer Research and Technology, Data Management Branch, Building 12A, Room 4041B, National Institutes of Health, Bethesda, Maryland 20892

Write to the appropriate system manager listed in Appendix I for a list of current locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consultants who provide the evaluation of extramural grants and cooperative agreement applications and research contract proposals, including the NIH Reviewers' Reserve.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, resumes, curriculum vitae (C.V.s), areas of expertise, publications, travel records, and payment records for consultants.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 301 of the Public Health Service Act, describing the general powers and duties of the Public Health Service relating to research and investigation, and section 402 of the Public Health Service Act, describing the appointment and authority of the Director of the National Institutes of Health (42 USC 241, 282 and 290aa).

PURPOSE OF THE SYSTEM:

This umbrella system comprises separate sets of records located in each of the NIH organizational components or facilities of contractors of the NIH. These records are used: (1) To identify and select experts and consultants for program reviews and evaluations; (2) To identify and select experts and consultants for the review of special grant and cooperative agreement applications and research contract proposals; and (3) To pay consultants and provide necessary reports related to payment to the Internal Revenue Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. Disclosure may be made to contractors to process or refine the records. Contracted services may include transcription, collation, computer input, and other records processing.

4. Information in this system of records is used routinely to prepare W–2 and 1099 Forms to submit to the Internal Revenue Service and applicable State and local governments those items to be included as income to an individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, computer tapes and disks, microfiche, and microfilm.

RETRIEVABILITY:

Records are retrieved by name, address, or expertise.

SAFEGUARDS:

1. *Authorized users:* Data on computer files is accessed by keyword known only to authorized users who are NIH or contractor employees involved in managing a review or program advisory committee, conducting a review of extramural grant applications, cooperative agreement applications, or research contract proposals, performing an evaluation study or managing the consultant file. Access to information is thus limited to those with a need to know.

2. *Physical safeguards:* Rooms where records are stored locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

3. *Procedural safeguards:* Names and other identifying particulars are deleted when data from original records are encoded for analysis. Data stored in computers is accessed through the use of keywords known only to authorized users. Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

This system of records will be protected according to the standards of Chapter 45–13 of the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, and part 6, "ADP Systems Security," of the HHS Information Resources Management Manual and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 1100–G. Refer to the NIH Manual Chapter for specific disposition instructions.

SYSTEM MANAGER(S) AND ADDRESS:

The policy coordinator for this system is also the system manager listed for the Division of Research Grants.

Chief, Physiological Sciences Review Section, Referral and Review Branch, Division of Research Grants, Westwood Building, Room 203A, 5333 Westbard Avenue, Bethesda, Maryland 20892

and

See Appendix I

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate system manager as listed in Appendix I.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is whom he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should also reasonably specify the record contents being sought. Individuals may also request listings of accountable disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURE:

Contact the official under notification procedures above, reasonably identify the record, specify the information to be contested, and state the corrective action sought with supporting information. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—System Managers

Office of the Director (OD), Extramural Programs Management Officer, Building 1, Room 328, Bethesda, MD 20892

National Center for Research Resources (NCRR), Director, Office of Review, Westwood Building, Room 8A16, Bethesda, MD 20892

National Cancer Institute (NCI), Chief, Review Logistics Branch, Westwood Building, Room 850, Bethesda, MD 20892

National Eye Institute (NEI), Review and Special Projects Officer, Building 31, Room 6A06, Bethesda, MD 20892

National Heart, Lung, and Blood Institute (NHLBI), Associate Director for Review, Westwood Building, Room 557A, Bethesda, MD 20892

National Institute on Aging (NIA), Chief, Scientific Review Office, Gateway Building, Suite 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892

National Institute of Allergy and Infectious Diseases (NIAID), Deputy Director, Division of Extramural Activities, Solar Bldg., Room 4C–03, 6003 Executive Blvd. Rockville, MD 20892,

National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS), Chief, Grants Review Branch, Westwood Building, Room 406, Bethesda, MD 20892

National Institute of Child Health and Human Development (NICHD), Director, Division of Scientific Review, Executive Plaza North, Room 520, Bethesda, MD 20892

National Institute on Deafness and Other Communication Disorders (NIDCD), Chief, Scientific Review Branch, Executive Plaza South, Room 400B, 620 Executive Boulevard, Rockville, MD 20852

National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), Chief, Review Branch, Westwood Building, Room 603, Bethesda, MD 20892

National Institute of Dental Research (NIDR), Chief, Scientific Review Section, POB, Westwood Building, Room 519, Bethesda, MD 20892

National Institute of Environmental Health Sciences (NIEHS), Deputy Director,

Division of Extramural Research and Training, P.O. Box 12233, Research Triangle Park, NC 27709
National Institute of General Medical Sciences (NIGMS), Chief, Office of Review Activities, Westwood Building, Room 9A18, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke (NINDS), Chief, Scientific Review Branch, Federal Building, Room 9C10A, Bethesda, MD 20892
National Center for Nursing Research (NCNR), Executive Secretary, NRRC and NACNR, Building 31, Room 5B19, Bethesda, MD 20892
National Library of Medicine (NLM), Chief, Biomedical Information Support Branch, Building 38A, Room 5S522, Bethesda, MD 20894
National Center for Human Genome Research (NCHGR), Chief, Office of Scientific Review, Building 38A, Room 606, Bethesda, MD 20892
National Institute of Mental Health, Contract Officer, Contracts Management Branch, ORM, Parklawn Building, Room 7C18, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Alcohol Abuse and Alcoholism, Contract Officer, Contracts Management Branch, OPRM, Parklawn Building, Room 14C06, 5600 Fishers Lane, Rockville, MD 20857
National Institute of Drug Abuse, Contract Officer, Contracts Management Branch, OPRM, Parklawn Building, Room 10–49, 5600 Fishers Lane, Rockville, MD 20857

09–25–0165

SYSTEM NAME:

National Institutes of Health Acquired Immunodeficiency Syndrome (AIDS) Research Loan Repayment Program, HHS/NIH/OD.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of AIDS Research (OAR), National Institutes of Health, Building 31, Room 5C12, 9000 Rockville Pike, Bethesda, Maryland 20892
and
Division of Computer Research and Technology (DCRT), National Institutes of Health, Building 12A, Room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892
and
Operations Accounting Branch, Division of Financial Management (DFM), National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892.

See Appendix I for a listing of other NIH offices responsible for administration of the AIDS Research Loan Repayment Program. Write to the System Manager at the address below for the address of any Federal Records Center where records from this system may be stored.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have applied for, who have been approved to receive, who are receiving, and who have received funds under the NIH AIDS Research LRP; and individuals who are interested in participation in the NIH AIDS Research LRP.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number; service pay-back obligations, standard school budgets, educational loan data including deferment and repayment/delinquent/default status information; employment data; professional and credentialing history of licensed health professionals including schools of attendance; personal, professional, and demographic background information; employment status verification (which includes certifications and verifications of continuing participation in AIDS research); Federal, State and local tax information, including copies of tax returns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 487A (42 USC 288–1) of the PHS Act, as amended, directing the NIH to establish and implement a program of educational loan repayment for qualified health professionals who agree to conduct, as employees of NIH, AIDS research. The provisions of section 338B of the PHS Act (42 USC 2541–1), as amended, governing the NHSC loan repayment program, are incorporated except as inconsistent. The Internal Revenue Code at 26 USC 6109 requires the provision of the SSN for the receipt of loan repayment funds under the NIH AIDS Research LRP.

PURPOSE(S) OF THE SYSTEM:

(1) To identify and select applicants for the NIH AIDS Research LRP; (2) To monitor loan repayment activities, such as payment tracking, deferment of service obligation, and default; and (3) To assist NIH officials in the collection of overdue debts owed under the NIH AIDS Research LRP. Records may be transferred to system No. 09–15–0045, "Health Resources and Services Administration Loan Repayment/Debt Management Records System, HHS/HRSA/OA," for debt collection purposes when NIH officials are unable to collect overdue debts owed under the NIH AIDS Research LRP.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. Disclosure may be made to the Department of Justice or to a court or other tribunal from this system of records, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States of any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, or local, charged with enforcing or implementing the statute or rule, regulation or order issued pursuant thereto.

4. NIH may disclose records to Department contractors and subcontractors for the purpose of collecting, compiling, aggregating, analyzing, or refining records in the system. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to such records.

5. NIH may disclose information from this system of records to private parties such as present and former employers, references listed on applications and associated forms, other references and educational institutions. The purpose of such disclosures is to evaluate an individual's professional accomplishments, performance, and educational background, and to determine if an applicant is suitable for participation in the NIH AIDS Research LRP.

6. NIH may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain a commercial credit report to

assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosures are limited to the individual's name, address, Social Security number and other information necessary to identify him/her; the funding being sought or amount and status of the debt; and the program under which the applicant or claim is being processed.

7. NIH may disclose from this system of records a delinquent debtor's or a defaulting participant's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose, as follows:

a. To another Federal agency so that agency can effect a salary offset for debts owed by Federal employees; if the claim arose under the Social Security Act, the employee must have agreed in writing to the salary offset.

b. To another Federal agency so that agency can effect an unauthorized administrative offset; i.e., withhold money, other than federal salaries, payable to or held on behalf of the individual.

c. To the Treasury Department, Internal Revenue Service (IRS), to request an individual's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

8. NIH may disclose information from this system of records to another agency that has asked the Department to effect a salary or administrative offset to help collect a debt owed to the United States. Disclosure is limited to the individual's name, address, Social Security number, and other information necessary to identify the individual to information about the money payable to or held for the individual, and other information concerning the offset.

9. NIH may disclose to the Treasury Department, Internal Revenue Service (IRS), information about an individual applying for loan repayment under any loan repayment program authorized by the Public Health Service Act to find out whether the applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individual's name, address, Social Security number, other information necessary to identify him/her, and the program for which the information is being obtained.

10. NIH may report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

11. NIH may disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor or a defaulting participant. Disclosure will be limited to the individual's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

12. NIH may disclose information from this system of records to any third party that may have information about a delinquent debtor's or a defaulting participant's current address, such as a U.S. post office, a State motor vehicle administration, a professional organization, an alumni association, etc., for the purpose of obtaining the individual's current address. This disclosure will be strictly limited to information necessary to identify the individual, without any reference to the reason for the agency's need for obtaining the current address.

13. NIH may disclose information from this system of records to other Federal agencies that also provide loan repayment at the request of these Federal agencies in conjunction with a matching program conducted by these Federal agencies to detect or curtail fraud and abuse in Federal loan repayment programs, and to collect delinquent loans or benefit payments owed to the Federal Government.

14. NIH may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's or a defaulting participant's name, address, Social Security number, and other information necessary to identify the individual; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the individual.

15. NIH may disclose information provided by a lender to other Federal agencies, debt collection agents, and other third parties who are authorized to collect a Federal debt. The purpose of this disclosure is to identify an individual who is delinquent in loan or benefit payments owed to the Federal Government.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable NIH to improve the quality of loan repayment decisions by taking into account the financial reliability of applicants, including obtaining a commercial credit report to assess and verify the ability of an individual to repay debts owed to the Federal Government. Disclosure of records will be limited to the individual's name, Social Security number, and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, computer tape, discs, and file cards.

RETRIEVABILITY:

Records are retrieved by name, Social Security number, or other identifying numbers.

SAFEGUARDS:

1. *Authorized users:* Data on computer files is accessed by keyword known only to authorized users who are NIH employees responsible for implementing the NIH AIDS Research LRP. Access to information is thus limited to those with a need to know.

2. *Physical safeguards:* Rooms where records are stored and locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel. Security guards perform random checks on the physical security of the data.

3. *Procedural and technical safeguards:* A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs (see Authorized Users, above) protect information from public view and from unauthorized personnel entering an unsupervised office.

These practices are in compliance with the standards of Chapter 45–13 of

the HHS General Administration Manual, "Safeguarding Records Contained in Systems of Records," supplementary Chapter PHS hf: 45–13, the Department's Automated Information System Security Handbook, and the National Institute of Standards and Technology Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records are retained and disposed of under the authority of the NIH Records Control Schedule contained in NIH Manual Chapter 1743, Appendix 1—"Keeping and Destroying Records" (HHS Records Management Manual, Appendix B–361), item 2300–537–1. Participant case files are transferred to a Federal Records Center one year after closeout and destroyed five years later. Closeout is the process by which it is determined that all applicable administrative actions and loan repayments have been completed by the LRP and service obligations have been completed by the participant. Applicant case files are destroyed three years after disapproval or withdrawal of their application. Official appeal and litigation case files are destroyed six years after the calendar year in which the case is closed. Other copies of these files are destroyed two years after the calendar year in which the case is closed.

SYSTEM MANAGER AND ADDRESS:

Director, NIH AIDS Research Loan Repayment Program, Office of AIDS Research, National Institutes of Health, Building 31, room 5C12, 9000 Rockville Pike, Bethesda, Maryland 20892.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager listed above. The requester must also verify his or her identity by providing either a notarization of the request or a written certification that the requester is who he or she claims to be. The request should include: (a) Full name, and (b) appropriate dates of participation. The requester must also understand that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to a five thousand dollar fine. Requesters appearing in person must provide a valid driver's license or passport, including photo, and at least one other form of identification.

RECORD ACCESS PROCEDURES:

Write to the System Manager specified above to attain access to records and provide the same information as is required under the Notification Procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosure of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager specified above and reasonably identify the record, specify the information to be contested, the corrective action sought, and your reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely or irrelevant. The right to contest records is limited to information which is incomplete, irrelevant, incorrect, or untimely (obsolete).

RECORD SOURCE CATEGORIES:

Subject individual; participating lending institutions; educational institutions attended; other Federal agencies; consumer reporting agencies/credit bureaus; and third parties that provide references concerning the subject individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—System Locations

Office of AIDS Research, National Institutes of Health, Building 31, Room 5C12, 9000 Rockville Pike, Bethesda, Maryland 20892
Division of Computer Research and Technology, National Institutes of Health, Building 12A, Room 4037, 9000 Rockville Pike, Bethesda, Maryland 20892
Operations Accounting Branch, Division of Financial Management, National Institutes of Health, Building 31, Room B1B55, 9000 Rockville Pike, Bethesda, Maryland 20892
Division of Cancer Treatment, National Cancer Institute, National Institutes of Health, Building 31, Room 3A44, 9000 Rockville Pike, Bethesda, MD 20892
Division of Cancer Etiology, National Cancer Institute, National Institutes of Health, Building 41, Room A208, 9000 Rockville Pike, Bethesda, MD 20892
Division of Cancer Biology, Diagnosis, and Centers, National Cancer Institute, National Institutes of Health, Building 31, Room 3A05, 9000 Rockville Pike, Bethesda, MD 20892
National Heart, Lung, and Blood Institute, National Institutes of Health, Building 10, Room 7N218, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C23, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 10, Room 9N222, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Neurological Disorders and Stroke, National Institutes of Health, Building 10, Room 5N220, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A05, 9000 Rockville Pike, Bethesda, MD 20892
Pharmacological Sciences Program, National Institute of General Medical Sciences, National Institutes of Health, 5333 Westbard Avenue, Room 919, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Child Health and Human Development, National Institutes of Health, Building 31, Room 2A25, 9000 Rockville Pike, Bethesda, MD 20892
National Eye Institute, National Institutes of Health, Building 10, Room 10N202, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Environmental Health Sciences, National Institutes of Health, P.O. Box 12233, Research Triangle Park, NC 27709
Gerontology Research Center, National Institute on Aging, National Institutes of Health, 4940 Eastern Avenue, Baltimore, MD 21224
National Institute of Arthritis and Musculoskeletal and Skin Diseases, National Institutes of Health, Building 31, Room 4C13, 9000 Rockville Pike, Bethesda, MD 20892
National Institute of Deafness and Communication Disorders, National Institutes of Health, Building 31, Room 3C02, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Research Resources, National Institutes of Health, Building 31, Room 3B36, 9000 Rockville Pike, Bethesda, MD 20892
National Center for Nursing Research, National Institutes of Health, Building 31, Room 5B06, 9000 Rockville Pike, Bethesda, MD 20892
Critical Care Medicine Department, Clinical Center, National Institutes of Health, Building 10, Room 7D43, 9000 Rockville Pike, Bethesda, MD 20892
National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Parklawn Building, Room 16C05, 5600 Fishers Lane, Rockville, MD 20857
National Institute on Drug Abuse, National Institutes of Health, Parklawn Building, Room 10A38, 5600 Fishers Lane, Rockville, MD 20857.
National Institute of Mental Health, National Institutes of Health, Parklawn Building, Room 1599, 5600 Fishers Lane, Rockville, MD 20857.

09–25–0201

SYSTEM NAME:

Clinical Research: National Institute of Mental Health Patient Records, HHS/NIH/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In- and out-patients with emotional, psychiatric, and neurophysiological disability, normal subjects, and research subjects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research data of wide variety including biochemical measures, psychophysiological and psychological tests, questionnaires, clinical and behavioral observations and interviews, physical examinations, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, 302, and 303 (42 U.S.C. 241, 242, 242a).

PURPOSE(S) OF THE SYSTEM:

These records are used for diagnosis and treatment of patients with neuropsychiatric illnesses; behavioral research relating to the causes, diagnoses, and treatment of neuropsychiatric disorders; and basic research on behavioral processes and personality development.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

1. A record may be disclosed for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

3. In the event of litigation where the defendant is (a) the Department, and component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In original state; files, indexes, magnetic and other tapes.

RETRIEVABILITY:

Retrieved by name (coded).

SAFEGUARDS:

1. *Authorized users:* Only authorized medical and research staff have access to these records.

2. *Physical safeguards:* Magnetic tapes, files, indexes, and other tapes that contain individually identifiable data are stored in a locked cabinet in a limited access area.

3. *Procedural safeguards:* Magnetic data are further protected by special account numbers and passwords.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Records may be retired to a Federal Records Center and subsequently disposed of in accordance with the NIH Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Intramural Research Program, National Institute of Mental Health, Building 10, Room 4N–224, 9000 Rockville Pike, Bethesda, Maryland 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) nature of illness (if any); (c) ward or laboratory; (d) title of study; (e) name of researcher conducting study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of child's/incompetent person's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The designate will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individuals under study, either patient or normal subject, contract surveys, hospital records, medical and nursing staff notes.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0202

SYSTEM NAME:

Patient Records on PHS Beneficiaries (1935–1974) and Civilly Committed Drug Abusers (1967–1976) Treated at the PHS Hospitals in Fort Worth, Texas, or Lexington, Kentucky, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, PO Box 5180, Baltimore, Maryland 21224.
Federal Records Center, 1557 St. Joseph Avenue, East Point, Georgia 30344.
Washington National Records Center, 4205 Suitland Road, Washington, DC 20409.
National Business Activities, 8200 Preston Court, Suite One, Jessup, Maryland 20794.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilly committed narcotic addicts (1967–1976) and adult PHS beneficiaries (1935–1974) treated at either the PHS hospital in Fort Worth, Texas, or Lexington, Kentucky.

CATEGORIES OF RECORDS IN THE SYSTEM:

Administrative records, such as treatment admission and release dates, name and address, and other demographic data; medical records, such as, but not limited to, medical history information, drug abuse/use data as well as treatment information, any laboratory tests, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Narcotic Addict Rehabilitation Act of 1966, and Narcotic Addict Rehabilitation Amendments of 1971, Titles I and III (42 U.S.C. 3411 et seq. and 28 U.S.C. 2901 et seq.), and Public Health Service Act, sections 321–326, 341 (a) and (c) (42 U.S.C. 248–253, 257 (a) and (c)).

PURPOSE(S) OF THE SYSTEM:

The records were collected originally to monitor the individual's progress while being treated at either of two PHS hospitals and to ensure continuity of that care. These systems are now inactive. The records are used to respond to requests from subject individuals (or his/her designated representative) to (1) establish eligibility for certain Federal benefits for the individual or his/her dependent(s), and (2) provide information to subsequent health care providers at the request of the individual regarding medical treatment received to ensure continuity of care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USFS·

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records at National Institute on Drug Abuse (NIDA) are on microfilm and contain only part of the admission and discharge information. The microfilm is stored in a file cabinet in a locked room. Records sent to Federal Records Center are stored in GSA-approved storage containers.

RETRIEVABILITY:

The administrative records and microfilm are filed by patient name. The medical records are filed either by patient name or by patient's hospital number with a cross-reference list at NIDA matching number to name.

SAFEGUARDS:

1. *Authorized users:* Only the System Manager and designated staff.

2. *Physical safeguards:* The microfilm is in a room which has limited access, or stored at a security coded warehouse. The room is located in a building with a 24-hour security patrol/television surveillance system. Sign in and out procedures are used at all times. The warehouse has security access, records can only be retrieved by the System Manager or designated staff using a confidential code number. The warehouse is patrolled on a 24-hour basis with television surveillance.

3. *Procedural safeguards:* Only the System Manager and his/her staff have access to the microfilm information and have been trained in accordance with the Privacy Act.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

All administrative and medical records have been retired to a Federal Records Center. The records collected under the Narcotic Addict Rehabilitation Act of 1966 will be destroyed when they are 25 years old, which will be in 2001 because the last patient was released from treatment in 1976. The PHS beneficiaries' records will be destroyed at the same time. The records will be shredded in 2003 upon written request from the System Manager.

SYSTEM MANAGER(S) AND ADDRESSES:

Clinical Director, Addiction Research Center, National Institute on Drug Abuse, Francis Scott Key Medical Center, Box 5180, Baltimore, Maryland 21224.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself or herself upon written request with a notarized signature. The request should include, if known: Patient hospital record number, full name or any alias used, patient's address during treatment, birth date, veteran status (if applicable) and approximate dates in treatment, and Social Security Number.

An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above, and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Patients; patients' drug treatment program counselors; court records; hospital personnel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0203

SYSTEM NAME:

National Institute on Drug Abuse, Addiction Research Center, Federal Prisoner and Non-Prisoner Research Files, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Addiction Research Center, Francis Scott Key Medical Center—Building C, P.O. Box 5150, Baltimore, Maryland 21224

Maryland Medical Laboratories, Inc., Pathology Building, 1901 Silver Spring Road, Baltimore, Maryland 21227
Federal Records Center, 1557 St. Joseph Avenue, East Point, Georgia 30344
Washington National Records Center, 4205 Suitland Road, Washington, DC 20409
NOVA, Francis Scott Key Medical Center—Building C, 4940 Eastern Avenue, Baltimore, Maryland 21224
National Business Activities, 8200 Preston Court, Suite One, Jessup, Maryland 20794

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteers, adult males (from 1968 to present), adult females (beginning in 1985) and adolescents (ages 13–18, beginning in 1983) and children (neonate to 12 beginning in 1989). Clinical research projects conducted at the Addiction Research Center (ARC). This system also includes records on adult Federal prisoners involved in research projects at ARC when located at Lexington, Kentucky, from 1968–1976, and some records from system 09–30–0020 to be used for statistical research only.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records involved are administrative, medical and research records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301(a) (42 U.S.C. 241(a)); sections 341(a) and 344(d) (42 U.S.C. 257(a) and 260(d)); sections 503 and 515 (42 U.S.C 290aa-2 and 290cc). These sections authorize the conduct of research in all areas of drug abuse.

PURPOSE(S) OF THE SYSTEM:

(1) To collect and maintain a data base for research activities at ARC, and (2) to enable Federal drug abuse researchers to evaluate and monitor the subjects' health during participation in a research project. The areas of research include, but are not limited to, biomedical, clinical, behavioral, pharmacological, psychiatric, psychosocial, epidemiological, etiological, statistical, treatment and prevention of narcotic addiction and drug abuse.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. The National Institute on Drug Abuse (NIDA) uses a contractor to recruit volunteers and to screen these individuals for their acceptability to participate in specific research projects, and limits the contractor's access to the records to these procedures. NIDA also uses a contractor to perform routine medical laboratory tests on blood and urine samples. These routine tests verify that the subject is in good health. Both contractors disclose records from this system only to NIDA and are required to maintain Privacy Act safeguards with respect to such records.

2. (a) PHS may inform the sexual and/or needle-sharing partner(s) of a subject individual who is infected with the human immunodeficiency virus (HIV) of their exposure to HIV, under the following circumstances: (1) The information has been obtained in the course of clinical activities at PHS facilities carried out by PHS personnel or contractors; (2) The PHS employee or contractor has made reasonable efforts to counsel and encourage the subject individual to provide the information to the individual's sexual or needle-sharing partner(s); (3) The PHS employee or contractor determines that the subject individual is unlikely to provide the information to the sexual or needle-sharing partner(s) or that the provision of such information cannot reasonably be verified; and (4) The notification of the partner(s) is made, whenever possible, by the subject individual's physician or by a professional counselor and shall follow standard counseling practices.

(b) PHS may disclose information to State or local public health departments, to assist in the notification of the subject individual's sexual and/or needle-sharing partner(s), or in the verification that the subject individual has, notified such sexual or needle-sharing partner(s).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders or on computer disks or magnetic tapes.

RETRIEVABILITY:

Administrative and medical records are indexed and retrieved by the subject's name. Research records are indexed and retrieved by the subject's name and an identification code.

SAFEGUARDS:

1. *Authorized areas:* Only authorized ARC staff (Principal Investigator and his/her research team) are allowed access to these files. The contractor staff has access to the files during the recruitment/screening process.

2. *Physical safeguards:* Files and file rooms are locked after business hours. Building has electronic controlled entry at all times with a 24-hour guard/television surveillance system. The computer terminals are in a further secured area.

3. *Procedural safeguards:* All users of personal information in connection with the performance of their jobs protect information from unauthorized personnel. Access codes to the research records are available only to the Principal Investigator and his/her research team. Access to the records is strictly limited to those staff members trained in accordance with the Privacy Act. The contractor staff members are required to secure the information in accordance with the Privacy Act. ARC Project Officer and contracting officials will monitor contractor compliance.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; and Chapter 6–05, "Risk Management," under Part 6 in the Department's ADP Systems Security Manual.

In addition, because much of the data collected in these research projects are sensitive and confidential, special safeguards have been established. Certificates of confidentiality have been issued under Protection of Identity—Research Subjects Regulations (42 CFR part 2a) to those projects initiated since February 1980. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding their names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify such individuals. In addition, these records are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed pursuant to these regulations for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State."

RETENTION AND DISPOSAL:

Records will be disposed of in accordance with the NIH Records Control Schedule, i.e., when the records are 10 years old or no longer required for administrative or research purposes. The records on individuals who do not qualify for a specific research project are

kept for one year by the contractor who then destroys them by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Clinical Director, NIDA, Addiction Research Center, Francis Scott Key Medical Center—Building C, P.O. Box 5150, Baltimore, Maryland 21224.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. Provide a notarized signature as proof of identity. This can be waived if the request is made through official federal, state, or local channels. The request should include the patient's register number and/or the number of years of incarceration (for prisoner subjects), full name at time of participation in the research project, date(s) of research participation, and title of research project or name of drug being studied. An individual who requests notification of a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of an adolescent's record shall designate a family physician or other health professional (other than a family member) of the Addiction Research Center staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures that have been made of his/her records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought and reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The individual; observations and medical recordings (such as blood pressure, dosage of compound administered, etc.) made by the Principal Investigator and his/her research team; system of records number 09–30–0020; drug treatment programs; Bureau of Prisons; case workers; psychiatrists; research laboratories; and pharmacies and hospitals. Many of these records are confidential and privileged communication is guaranteed under section 344(d) of the PHS Act.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0204

SYSTEM NAME:

Records of Contracts Awarded to Individuals, HHS/NIH/NIDA, HHS/NIH/NIAAA, and HHS/NIH/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institute on Drug Abuse, Contracts Management Branch, Room 10–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

National Institute on Alcohol Abuse and Alcoholism, Contracts Management Branch, Room 14C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

National Institute of Mental Health, Contracts Management Branch, ORM, Room 7C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Washington National Records Center, 4205 Suitland Road, Washington, DC 20409

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

An individual who receives a contract as well as individuals who apply or compete for an award but do not receive the award and their consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Curriculum vitae, salary information, evaluations of proposals by contract review committees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, 503, 502 and 504 (42 U.S.C. 241, 290aa–2, 290aa–1, and 290–aa3).

PURPOSE(S) OF THE SYSTEM:

To document the history of each contract procurement action and award made within NIH to an individual. The records are also used by contract review committee members when evaluating a proposal submitted by an individual.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

3. A record from this system may be disclosed to the following entities in order to help collect a debt owed the United States: (a) To another Federal agency so that agency can effect a salary offset; (b) to another Federal agency so that agency can effect an administrative offset under common law or under 31 U.S.C. 3716 (withholding from money payable to, or held on behalf of, the individual); (c) to the Treasury Department to request his/her mailing address under I.R.C. 6103(m)(2) in order to locate him/her or in order to have a credit report prepared; (d) to agents of the Department and to other third parties to help locate him/her in order to help collect or compromise a debt; (e) to debt collection agents under 31 U.S.C. 3718 or under common law to help collect a debt; and (f) to the Justice Department for litigation or further administrative action. Disclosure under part (d) of this routine use is limited to the individual's name, address, Social Security number, and other information necessary to identify him/her. Disclosure under parts (a)–(c) and (e) is limited to those items; the amount, status, and history of the claim; and the agency or program under which the claim arose. An address obtained from IRS may be disclosed to a credit

reporting agency under part (d) only for purposes of preparing a commercial credit report on the individual. Part (a) applies to claims or debts arising or payable under the Social Security Act if and only if the employee consents in writing to the offset.

4. NIH may disclose information from its records in this system to consumer reporting agencies in order to obtain credit reports to verify credit worthiness of contract applicants. Permissible disclosures include name, address, Social Security number or other information necessary to identify the individual; the funding being sought; and the program for which the information is being obtained.

5. When a debt becomes partly or wholly uncollectible, either because the time period for collection under the statute of limitations has expired or because the Government agrees with the individual to forgive or compromise the debt, a record from this system of records may be disclosed to the Internal Revenue Service to report the written-off amount as taxable income to the individual.

6. A record from this system may be disclosed to another Federal agency that has asked the Department to effect an administrative offset under common law or under 31 U.S.C. 3716 to help collect a debt owed the United States. Disclosure under this routine use is limited to: name, address, Social Security number, and other information necessary to identify the individual, information about the money payable to or held for the individual, and other information concerning the administrative offset.

7. NIH may disclose from this system of records to the Department of Treasury, Internal Revenue Service (IRS): (1) A delinquent debtor's name, address, Social Security number, and other information necessary to identify the debtor; (2) the amount of the debt; and (3) the program under which the debt arose, so that IRS can offset against the debt any income tax refunds which may be due to the debtor.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 522a(b)(12). Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681 (F)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of such disclosures is to provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records. Information disclosed will be limited to name, Social Security number, address, other information necessary to establish the identity of the individual, and amount, status, and history of the claim, and the agency or program under which the claim arose. Such disclosures will be made only after the procedural requirements of 31 U.S.C. 3711(f) have been met.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Documents filed in folders in enclosed and/or locked file cabinets.

RETRIEVABILITY:

By contract number and cross indexed by individual's name.

SAFEGUARDS:

1. *Authorized users:* Federal contract and support personnel, Federal contract review staff and outside consultants acting as peer reviewers of the project.

2. *Physical safeguards:* All folders are in file cabinets in a room that is locked after business hours in a building with controlled entry (picture identification). Files are withdrawn from cabinet for Federal staff who have a need to know by a sign in and out procedure.

3. *Procedural safeguards:* Access to records is strictly limited to those staff members trained in accordance with the Privacy Act.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual.

RETENTION AND DISPOSAL:

Records are retired to a Federal Records Center and subsequently disposed of in accordance with the NIH Records Control Schedule. The records control schedule and disposal standard for these records may be obtained by writing the System Manager at the address below.

SYSTEM MANAGER(S) AND ADDRESSES:

National Institute on Drug Abuse, Chief, Contracts Management Branch, OPRM, Room 10–49, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

National Institute on Alcohol Abuse and Alcoholism, Chief, Contracts Management Branch, Room 14C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

National Institute of Mental Health, Chief, Contracts Management Branch, Room 7C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. An individual may learn if a record exists about himself/herself upon written request with notarized signature. The request should include, if known, contractor's name, contract number, and approximate date contract was awarded. An individual may also request accounting of disclosures that have been made of his/her record, if any.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Contract proposals and supporting contract documents, contract review committees, site visitors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0205

SYSTEM NAME:

Alcohol, Drug Abuse, and Mental Health Epidemiologic and Biometric Research Data, HHS/NIH/NIAAA, HHS/NIH/NIDA and HHS/NIH/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records are located at the research facilities which collect or provide research data for this system under contract to the agency. Contractors may include, but are not limited to, research centers, clinics, hospitals, universities, research foundations, national associations, and coordinating centers. Records may also be located at the research facilities of the National Institute on Alcohol Abuse and Alcoholism (NIAAA), the National Institute on Drug Abuse (NIDA); and the National Institute of Mental Health (NIMH). A current list of sites is available by writing to the appropriate System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are the subjects of research in epidemiologic, clinical, methodologic, and longitudinal research studies and surveys of mental health and alcohol and drug use/abuse and mental, alcohol, and/or drug abuse disorders. These individuals are selected as representative of the general adult and/or child population or of special groups. Special groups include, but are not limited to, normal individuals serving as controls; clients referred for or receiving medical, mental health, and alcohol and/or drug abuse related treatment and prevention services; providers of services; demographic sub-groups as applicable, such as age, sex, ethnicity, race, occupation, geographic location; and groups exposed to hypothesized risks, such as relatives of individuals who have experienced mental health and/or alcohol, and/or drug abuse disorders, life stresses, or have previous history of mental, alcohol, and/or drug abuse related illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains data about the individual as relevant to a particular research study. Examples include, but are not limited to, items about the health/mental health and/or alcohol or drug consumption patterns of the individual; demographic data; social security numbers (voluntary); past and present life experiences; personality characteristics; social functioning; utilization of health/mental health, alcohol, and/or drug abuse services; family history; physiological measures; and characteristics and activities of health/mental health; alcohol abuse, and/or drug abuse care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301 and 405 (42 U.S.C. 241, and 284, General Research and Investigation Authorities); Public Health Service Act, sections 301, 302, 303 and title V, parts A and B (42 U.S.C. 241, 242, 242(a)).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system of records is to collect and maintain databases for research activities. Analyses of these data involve groups of individuals with given characteristics and do not refer to special individuals. The generation of information and statistical analyses will ultimately lead to a better description and understanding of mental, alcohol, and/or drug abuse disorders, their diagnosis, treatment and prevention, and the promotion of good physical and mental health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department: (a) As determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; e.g., disclosure of alcohol or drug abuse patient records will be made only in accordance with the restrictions of confidentiality statutes and regulations 42 U.S.C. 290 (dd–3), 42 U.S.C. 241 and 405, 42 CFR part 2, and where applicable, no disclosures will be made inconsistent with an authorization of confidentiality under 42 U.S.C. 242a and 42 CFR part 2a; (b) as determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; and (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by, these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from a congressional office made at the written request of that individual.

3. In the event of litigation, where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee; the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected (e.g., disclosure may be made to the Department of Justice or other appropriate Federal agencies in defending claims against the United States when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of the individual's participation in activities of a Federal Government supported research project).

4. The Department contemplates that it will contract with a private firm for the purpose of collecting, analyzing, aggregating, or otherwise refining records in this system. Relevant records will be disclosed to such contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored on index cards, file folders, computer tapes and disks, microfiche, microfilm, and audio and video tapes. Normally, the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and followup, if any, retrieval by personal identifier (e.g., name, social security number) (in some studies), or medical record number, is necessary. During the data analysis stage, data are normally retrieved by the variables of interest (e.g., diagnosis, age, occupation).

SAFEGUARDS:

1. *Authorized users:* Access to identifiers and to link files is strictly limited to the authorized personnel whose duties require such access. Procedures for determining authorized access to identified data are established as appropriate for each location. Personnel, including contractor personnel, who may be so authorized include those directly involved in data collection and in the design of research

studies, e.g., interviewers and interviewer supervisors; project managers; statisticians involved in designing sampling plans.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link files are separated as much as possible and stored in locked files. Computer data access is limited through the use of key words known only to authorized personnel.

3. *Procedural safeguards:* Collection and maintenance of data is consistent with legislation and regulations in the protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients where these apply. When an Institute Division or a contractor provides anonymous data to research scientists for analysis, study numbers which can be matched to personal identifiers will be eliminated, scrambled, or replaced by the agency or contractor with random numbers which cannot be matched. Contractors who maintain records in this system are instructed to make no further disclosure of the records. Privacy Act requirements are specifically included in contracts for survey and research activities related to this system. The HHS project directors, contract officers, and project officers oversee compliance with these requirements.

4. *Implementation guidelines:* DHHS Chapter 45—and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual and Part 6, "ADP System Security" of the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

Personal identifiers are retained only as long as they are needed for the purposes of the current research project, and for followup studies generated by the present study. Removal or disposal of identifiers is done according to the storage medium (e.g., erase computer tape, shred or burn index cards, etc.). A staff person designated by the System Manager will oversee and will describe and confirm the disposal in writing.

SYSTEM MANAGER(S) AND ADDRESSES:

Director, Division of Epidemiology and Services Research, National Institute of Mental Health, Room 10–105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Clinical and Treatment Research, National Institute of Mental Health, Room 18C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Neuroscience and Behavioral Research, National Institute of Mental Health, Room 11–103, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Office of AIDS Programs, National Institute of Mental Health, Room 15–99, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Biometry and Epidemiology, National Institute on Alcohol Abuse and Alcoholism, Room 14C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Clinical and Prevention Research, National Institute on Alcohol Abuse and Alcoholism, Room 14C–10, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Clinical Research, National Institute on Drug Abuse, Room 10A–38, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Division of Epidemiology and Prevention Research, National Institute on Drug Abuse, Room 9A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Director, Medications Development Division, National Institute on Drug Abuse, Room 11A–55, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the appropriate System Manager at the address above. Provide individual's name; current address; date of birth; date, place and nature of participation in specific research study; name of individual or organization administering the research study (if known); name or description of the research study (if known); address at the time of participation; and a notarized statement by two witnesses attesting to the individual's identity.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

An individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or guardian who requests notification of, or access to, a child's or incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child or incompetent person as well as his or her own identity.

CONTESTING RECORD PROCEDURE:

Contact the appropriate official at the address specified under System Manager(s) above and reasonably identify the record, specify the information being contested, and state corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The system contains information obtained directly from the subject individual by interview (face-to-face or telephone), by written questionnaire, or by other tests, recording devices or observations, consistent with legislation and regulation regarding informed consent and protection of human subjects. Information is also obtained from other sources, such as health, mental health, alcohol, and/or drug abuse care providers; relatives; guardians; and clinical medical research records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0206

SYSTEM NAME:

Psychotherapy of Opiate-Dependent Individual, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Drug Dependence Treatment and Research Center, Philadelphia Veterans Administration Hospital (116D), University of Pennsylvania, 39th Street and Woodland Avenue, Philadelphia, Pennsylvania 19104.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Research subjects are adult clients admitted to a participating drug abuse treatment program of psychotherapy and drug counseling offered by and located in the Philadelphia Veterans Administration Hospital, between September 30, 1977, and September 29, 1981.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and address of study subjects and their responses to interview

instruments and tests in the following areas: Sociodemographic characteristics; and psychiatric diagnosis; symptom, social functioning, and personality measures. Information on the drug abuse treatment and psychotherapy provided, including audiotapes of therapy sessions and therapists' evaluations, are also included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Drug Abuse Prevention, Treatment and Rehabilitation Act (1972), section 410 (21 U.S.C. 1177); Public Health Act, sections 301 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S) OF THE SYSTEM:

The system was created to provide a data base to be used by NIDA for research leading to a better knowledge and understanding of the psychiatric status of opiate-dependent individuals and to determine the efficacy of psychotherapy as part of a treatment program for such individuals. We do not anticipate any disclosure of individually identifiable information to other persons or organizations within the Department of Health and Human Services. Should a request for disclosure occur within the Department, such as provided by section 3(b) of the Privacy Act, disclosure would not be permitted except in accordance with confidentiality regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. A record may be disclosed for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on interview forms, audiotapes, keypunch cards, magnetic tapes, and disks.

RETRIEVABILITY:

Research records and locational information for followup are maintained in numerical order by assigned client number. A list is also maintained by name and assigned client number for cross reference.

SAFEGUARDS:

1. *Authorized users:* Federal Project Officer and contract staff designated on the negotiated contract to work as part of the contract staff. These persons could be, but not limited to, Project Director, and his/her assistants and secretary. All contract staff are required to maintain all Privacy Act safeguards requirements.

2. *Physical safeguards:* Records are stored in files that are locked in a room that is locked after hours. The building has controlled entry (i.e., picture identification and/or sign in and out procedures). The computerized information is password protected.

3. *Procedural safeguards:* An authorization under section 303(a) of the Public Health Service Act as amended (42 U.S.C. 242a(a), implemented by confidentiality regulations (42 CFR part 2a), has been issued to the contractor to assure that the contractor may not be compelled in any legal proceeding to identify the research subjects. In addition, these records are subject to the protective restrictions of the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56).

Project documentation, including cross-reference list, completed interview forms, audiotapes, and computerized data files, is maintained under strict controls in a secure room at the contractors' facilities to ensure data integrity and confidentiality. The list, interview forms and audiotapes are stored in a locked and secure work space until data is entered on magnetic media and verified. The forms and cross-reference list are destroyed by burning or shredding, and audiotapes are erased when the connection to the individual is no longer necessary in the analysis of the data. The original analysis has been completed, but reanalyses are done periodically and are expected to be completed in approximately 5 years (1997). After study source documents are disposed of, no connection can be made between computer file data and the individual. Magnetic tapes and disks are kept in a vault area. During all stages of processing and storage, senior project personnel control access to and removal and replacement of all documents from specified working and storage areas. Access is permitted only upon the written authority of the Principal Investigator or Co-Principal Investigators. The contractor has developed an extensive computer facilities security system which is used by programmers to protect computer account codes and data from access by unauthorized users.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

After reanalysis of the data is completed (which is anticipated to be no more than 5 years from current time (1992), the NIDA project officer will authorize, in writing, the destruction of the personal identifiers and source documents unless the information is needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Branch Chief, Treatment Research Branch, Division of Clinical Research, National Institute on Drug Abuse, Room 10A–30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself or herself upon written request with notarized signature. The request should include, if known: Name of the researcher, name of the study, location of the research site, approximate date of data collection, any alias used by individual, and assigned client number.

An individual who requests notification of, or access to, a medical record, shall, at the time the request is

made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subjects, drug treatment programs, clinical evaluators, counselors, psychiatrists, psychotherapists, family members, research assistants, pharmacies, hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0207

SYSTEM NAME:

Subject-Participants in Pharmacokinetic Studies on Drugs of Abuse, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Department of Psychiatry, School of Medicine, University of North Carolina, Chapel Hill, North Carolina 27514

Research Triangle Institute, Life Sciences Division, Research Triangle Park, North Carolina 27154

University of California, San Francisco, Langley Porter Psychiatric Institute, San Francisco, California 94143

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Normal, healthy adults who voluntarily participate in studies on the pharmacokinetics of drugs of abuse, at the University of North Carolina, during the period November 1979 through September 1984, and at the Research Triangle Institute and Langley Porter Psychiatric Institute, during the period September 1987 through September 1993.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research records on each subject-participant contain the following information: Name; clinician's records including medical history, laboratory test results, physical examinations, psychological profile, and drug use profile; drug study data including records of drugs administered, exposures to radioactivity, and drug reactions; and date of study in which the subject participated.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301(a), 503 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S) OF THE SYSTEM:

The primary purpose of this system is to support research on the pharmacokinetics of drugs of abuse. The term "pharmacokinetics" refers to the manner in which the human body processes a drug.

The clinical investigator used data of a medical nature that is contained in the system to make determinations regarding drug dosages and/or radiochemical exposures appropriate to the individual human subject-participants, in order to preserve and protect the health of each. The system also provides baseline data for studying the drug effects.

The Food and Drug Administration (FDA) also may use the records in routine inspections FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose to a congressional office the record of an individual in response to a verified inquiry from the congressional office made at the written request of the individual.

2. NIH contractors, use the records in this system to accomplish the research purpose for which the records are collected. The contractors are required to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The contractor maintains the records on paper in file folders.

RETRIEVABILITY:

The contractor indexes and retrieves the records by the subject-participant's name.

SAFEGUARDS:

1. *Authorized users:* Only the contract Project Director and his/her research team and the Federal Project Officer and his/her support staff have access to these records.

2. *Physical safeguards:* The contractor keeps all records in a locked metal file cabinet in premises with limited accessibility. Only the clinical investigator (Project Director) has the key to the locked files.

3. *Procedural safeguards:* Only the contract staff have access to the files. Persons other than subject participants who request individually identifiable data from a record, must provide written consent from the subject participant permitting the requested disclosure. The only exception would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(B) to obtain personally identifiable data.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual. In addition, the contract staff complies with contractor's (School of Medicine of the University of North Carolina) standard procedures for safeguarding data.

RETENTION AND DISPOSAL:

The records will be kept no later than September 1998 (5 years after the anticipated completion of the studies). At that time, the NIDA project officer will authorize in writing the clinical investigators to destroy the records by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Pharmacokinetic Studies on Drugs of Abuse, Division of Basic Research, National Institute on Drug Abuse, National Institutes of Health, Room 10A–19, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the system manager listed above. Provide the following information: Subject-participant's full name and a letter of request (or permission, if the requester is not the subject-participant) with notarized signature of the individual who is the subject of the record, approximate date(s) of experiment(s) in which the individual participated, and drug name (if known). In addition, an individual who requests notification of, or access to, a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above and reasonably identify the record, specify the information to be contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

The subject-participants and the contractor personnel conducting the research studies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-25-0208

SYSTEM NAME:

Drug Abuse Treatment Outcome Study (DATOS), HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

For records collected between 1979 through 1986: National Institute on Drug Abuse, Division of Clinical Research, 5600 Fishers Lane, Rockville, Maryland 20857.

New Records collected between 1991 hrough 1995 will be located with Research Triangle Institute, Life Sciences Division, Research Triangle Park, N.C. 27709, an NIH contractor.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally funded treatment programs, including Treatment Alternative Street Crime (TASC) Programs of the Department of Justice, who requested to be included in TOPS from 1979 through 1986. New data collected from voluntary adults and young adult clients of public and private funded-treatment programs beginning in 1991 and will continue through 1995.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories are: Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301 and 405 (42 U.S.C. 241 and 284).

PURPOSE(S) OF THE SYSTEM:

The purpose of the system is to compile information on drug abusers in drug abuse treatment programs in order to derive information on the treatment environments and abusers' behaviors and characteristics subsequent to treatment. Researchers and drug abuse service providers may use the aggregate data to address issues and generate hypotheses to understand better the interactions among the client and community.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Within the restrictions set forth in HHS regulations concerning the confidentiality of drug abuse patient records (42 CFR 2.56), we may disclose a record for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except: (A) In emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to, abide by these provisions.

2. The Research Triangle Institute, an NIH contractor, uses the records in this system to accomplish the research purpose for which the records are collected. In the event of followup studies or continuation studies because the contract has been terminated for convenience by the Government, we may disclose records in this system to a subsequent NIH contractor. We would require the new contractor to maintain Privacy Act safeguards with respect to such records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview forms, magnetic tapes, and disks.

RETRIEVABILITY:

Records are indexed and retrieved by unique alpha numerical identifier. In order to relate the data collected to specific individuals, one must use the link file discussed under Safeguards.

SAFEGUARDS:

1. *Authorized users:* Contractor personnel, the agency project officer, and agency employees whose duties require the use of the information in the system.

2. *Physical safeguards:* The data management task leader, the project leader, or the project director provide technical supervision of all data collection and processing activities. Individually identified forms are stored in a secure, vault-like room provided for this purpose. Authorized personnel have access to the room by one locked door with controlled entry, i.e., only on the written authority of the professional staff member in charge. Computerized records are kept in a vault area with limited accession.

3. *Procedural safeguards:* Because some of the data collected in this study, such as data on drug use, are sensitive and confidential, special safeguards have been established. A Certificate of Confidentiality has been issued under 42 CFR part 2a. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. In addition, these records are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been

disclosed pursuant to (these regulations) for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily or in response to any legal process whether Federal or State."

Another safeguard is that the forms containing subject identification information for client followup and data matching purposes do not include any reference to the purpose of the study. Identification and location information is kept separate from any information that would suggest that the respondent has been in a drug treatment program.

Information on completed forms is entered immediately on the computer. Completed forms and computerized data are released only to authorized persons. Only aggregate data are provided and used in the preparation of necessary and appropriate reports.

A link file system is used. This system has three components: (1) Personal information, (2) data base information, and (3) the link file, which contains identifying number pairs which can be used to match data with individuals. The advantage of this system is that the data base can be used directly for report generation, etc., without the use of decrypting subroutines or access to the personal information or matching link files.

In addition, the computer center being utilized has developed an extensive security system to protect computer account codes and data. This system is described in a publication that is available from the System Manager upon request.

We do not anticipate any disclosure of individually identifiable information to other persons or organizations within the Department of Health and Human Services. Nor does the contractor provide individually identification information to the Department of Justice, with which NIDA has a cooperative agreement for this study.

4. *Implementation guidelines:* We used the National Bureau of Standards guidelines and Part 6, HHS ADP Systems Security Manual, "ADP System Security" in developing the computer safeguard procedures. Safeguards for nonautomated records are in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual. In addition, project staff complies with the contractor's (Research Triangle Institute) standard procedures for safeguarding data.

The contractor provides only aggregate information to NIDA.

RETENTION AND DISPOSAL:

The contractor destroys interview forms by shredding or burning immediately after contractor staff have completed and verified direct entry on magnetic tape or disk storage. The contractor will destroy individual identification and location data by shredding or burning, under the explicit written authorization of the System Manager, which is anticipated to be no longer than 5 years after the termination of the study unless the information is needed for research purposes. We will retain aggregate data tapes for research purposes. These tapes will not have any individually identifiable information. In accordance with the NIH Records Control Schedule, these tapes will be retained for 5 years after completion of the project (approximately 2000). At that time, the tapes will be retired to the Federal Records Center and destroyed when they are 10 years old or when they are no longer needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Drug Abuse Treatment Outcome Study (DATOS), Project Officer, Treatment Research Branch, Division of Clinical Research, National Institute on Drug Abuse, National Institutes of Health, Room 10A–30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself/herself upon written request, with notarized signature. The request should include, if known, name of the researcher, location of the research site, approximate date of data collection, any alias used, and subject identification number.

An individual who requests notification of a medical record shall, at the time the request in made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

A parent or legal guardian who requests notification of an adolescent's record shall designate a family physician or other health professional (other than a family member) of the Division of Clinical Research staff to whom the record, if any, will be sent. The parent or legal guardian must verify in writing the relationship to the adolescent as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

Persons other than subject individuals, who request individually identifiable data from a record must provide written consent from the subject individual permitting the requested disclosure. The only exception (if not in conflict with confidentiality regulations) would be for disclosure to persons or organizations permitted by the Privacy Act, section 3(b), to obtain personally identifiable data.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subjects, and staff in participating drug abuse treatment programs, written clinical evaluations, counselors, psychiatrists, psychotherapists, family members, research assistants, hospitals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0209

SYSTEM NAME:

Subject-Participants in Drug Abuse Research Studies Supporting New Drug Applications, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Veterans Administration Hospital, Cooperative Studies Program, Department of Veterans Medical Center, Perry Point, MD 21902

Dixon and Williams Pharmaceutical, 5775 Hyde Park Circle, Jacksonville, Florida 32210

Medications Development Division, Room 11A–55, and Division of Clinical Research, Room 10A–38, Parklawn Building, National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, MD 20857

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Voluntary adult clients of federally funded and other drug abuse treatment programs who have requested to receive

investigational new or marketed drugs, such as but not limited to, naltrexone, levo-alpha acetylmethadol (LAAM), or Buprenorphine as part of their treatment. Data collection for the earlier LAAM studies began in 1975 and continued through September 1979; additional LAAM studies began in 1992 and will continue through September 1997, naltrexone studies began in 1977 and continued through June 1984; and studies for other investigational new compounds (buprenorphine, gepirone, etc.) began in 1992 and will continue through September 1997.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data, treatment outcome data, treatment process data, client locator information, and personal identifiers (name and assigned numerical identifier).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, 464p, and 405 (42 U.S.C. 241, and 284).

PURPOSE(S) OF THE SYSTEM:

1. To maintain information on the effectiveness of drugs with abuse potential in various treatment environments and modalities and changes in the behavior and characteristics of drug abusers who received these substances as part of their treatment regimen.

2. To provide data required by the Food and Drug Administration (FDA) to support new drug applications for various drugs with abuse potential. A new drug application is a notice to FDA that a pharmaceutical company believes they have enough data to demonstrate the safety and efficacy of a substance to satisfy FDA for marketing the substance. FDA may also use the records in routine inspections. FDA conducts in accordance with its responsibilities to develop standards on the composition, quality, safety and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. NIH contractor(s) use the records in the system in order to accomplish the research and development purposes for which the records were collected. In the event of a followup study or continuation study, the responsible project officer may disclose records in this system to a subsequent ADAMHA contractor(s). Any new contractor(s) is and would be required to maintain Privacy Act safeguards with respect to such records and to comply with the confidentiality restrictions of 42 CFR part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Interview forms, magnetic tapes, disks and microfiche in boxes in closed cabinets in a locked room with limited accessibility.

RETRIEVABILITY:

The records are indexed and retrieved by subject-participant's name and unique numerical identifier. In order to relate the data collected to specific individuals, however, one must use the link file discussed under safeguards.

SAFEGUARDS:

1. *Authorized users:* For the naltrexone study, the System Manager or Federal Project Officer and only authorized contract staff have access to the records (computerized and hard copy files) in the system. The contractor provides only aggregate data in reports to NIDA, FDA, or the public. Only the NIDA personnel mentioned previously and selected authorized contract staff have access to the stored LAAM records.

A certificate of confidentiality has been issued to researchers conducting the naltrexone study under 42 CFR, part 2, Protection of Identity—Research Subjects. This authorization enables persons engaged in research on mental health, including research on the use and effect of psychoactive drugs, to protect the privacy of research subjects by withholding the names or other identifying characteristics from all persons not connected with the conduct of the research. Persons so authorized may not be compelled in any Federal, State or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals. The earlier LAAM study (from 1975 through 1979) was not conducted under a certificate of confidentiality. The 1992 LAAM studies are being conducted under the protection afforded by a confidentiality certificate. These regulations do not prohibit voluntary disclosure by the researcher. However, the records of both studies also are subject to 42 CFR part 2, the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations (42 CFR 2.56), which state: "Where the content of patient records has been disclosed. Pursuant to (these regulations) for the purpose of conducting scientific research * * * information contained therein which would directly or indirectly identify any patient may not be disclosed by the recipient thereof either voluntarily of in response to any legal process whether Federal or State."

The contractor's institutional review board reviewed and approved the safeguards described above in accordance with 45 CFR part 46 on the Protection of Human Subjects.

2. *Physical safeguards:* For the naltrexone records, the contractor(s) stored individually identified forms in a locked room with controlled entry, i.e., only on written authority of the professional staff member in charge of data handling and processing). The contractor staff entered the collected information onto computer tape or disks as soon after contact with the subject-participant as possible, and stores the computerized records in a secured area with access limited as above.

For the LAAM records, NIDA stores the individually identified forms in a lockable cabinet in a secure room. Only authorized NIDA personnel, i.e., Division of Clinical Research and Medications Development professional staff (research psychologist or medical officer) and their support staff (program assistant, clerk-typist, or secretary) have access to the room with controlled entry. The room is in a building which has a 24-hour guard/television surveillance system and has controlled entry (picture identification sign in and out procedures) before and after normal working hours.

Another safeguard for both studies is that the forms containing subject identification information do not include any reference to the purpose of the study. The identification information is separate from any information that would suggest that the respondent is or has been in a drug abuse treatment program. In addition, the computer center being utilized for naltrexone has developed an extensive security system to protect computer account codes and data.

3. *Procedural safeguards:* Access to the computerized records of the naltrexone study is protected by a computerized password routine which is changed periodically. In addition, the project staff complies with the contractor's standard procedures for safeguarding data. The link file system that identifies individuals with personal data has three components: (1) Identification information, (2) data base information, and (3) the link file, which contains identifying number pairs which match data with individuals. The advantage of this system is that one may use the baseline data directly for report generation, etc., without using the subroutines or accessing the personal information or link files.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual and Part 6, "ADP System Security" in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

The naltrexone staff will destroy identifiable information by shredding or burning when it is no longer needed for analysis or research purposes; then the tapes will be erased. NIDA will destroy individual identification and match-up information by shredding or burning 5 years after FDA completes the review and approves the new drug applications.

NIDA will retain the aggregate data tapes from both studies for research purposes. These tapes will not have any individually identifiable information. In accordance with the FDA regulations governing new drug applications, the aggregate tapes will be retained for 5 years after FDA approves the new drug applications. At that time, the tapes will be retired to the Federal Records Center and destroyed when they are 5 years old or when they are no longer needed for research purposes.

SYSTEM MANAGER(S) AND ADDRESS:

Project Officer, Naltrexone Study, Division of Clinical Research, Room 10A–30, Parklawn Building, National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, MD 20857

Project Officer, LAAM and Other Compound Records, Medications Development Division, Room 11A–55, Parklawn Building, National Institute on Drug Abuse, 5600 Fishers Lane, Rockville, MD 20857

NOTIFICATION PROCEDURE:

An individual may determine if a record exists about himself/herself upon written request, with notarized signature if request is made by mail, or with suitable identification if request is made in person, to the appropriate system manager at the address above. The following information should be included, if known: subject-participant's full name and a letter of request with notarized signature of the subject-participant of the record, any alias used, subject-participant's identification number, name of the researcher, name of clinic or research center, name of substance, and approximate date of study participation.

An individual who requests notification of a medical record must, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Research subject-participants, staff in the participating drug abuse treatment programs, written clinical evaluations, private physicians, counselors, psychiatrists, psychotherapists, family members, research assistants, and hospital records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0210

SYSTEM NAME:

Shipment Records of Drugs of Abuse to Authorized Researchers, HHS/NIH/NIDA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Research Technology Branch, Division of Basic Research, National Institute on Drug Abuse, Room 10A–13, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857

Research Triangle Institute, Research Triangle Park, North Carolina 27709

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual researchers and organizations who are registered with the Drug Enforcement Administration (DEA), Department of Justice (DOJ), some since 1966, and who have voluntarily submitted documentation to the National Institute on Drug Abuse (NIDA) in order to obtain, through the NIDA Drug Supply Program (DSP), drugs of abuse for use in a research project.

CATEGORIES OF RECORDS IN THE SYSTEM:

While the records in this system are research project-related, they support the eligibility of individual researchers to receive drugs of abuse. Types of information contained in the records are: Researcher's name, curriculum vitae, research protocol, DEA and (if applicable) Nuclear Regulatory Commission registration numbers (when a radiolabeled compound is requested and shipped), business address (location of research project) and telephone number, summary of research project(s), requests for substance(s), name and amount of each compound requested and shipped, dates material is shipped and received, shipment numbers, and order form numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, sections 301, and 405 (42 U.S.C. 241 and 284); Controlled Substances Act of 1970 (21 U.S.C. 801 et seq.); Atomic Energy Act of 1954, as amended, section 81 (42 U.S.C 2111); and Energy Reorganization Act of 1974, section 201 (42 U.S.C. 5841). Energy Reorganization Act of 1974, section 201 (42 U.S.C. 5841).

PURPOSE(S) OF THE SYSTEM:

To facilitate operation of DSP which is a centralized research support service through which the United States Government supplies to the national and international scientific community for research purposes, most Schedule I and many Schedule II–V controlled and noncontrolled substances as specified in the Controlled Substances Act (CSA) of 1970 (21 U.S.C. 801 et seq.). Controlled substances are chemicals and other substances, and their immediate precursors, that the Attorney General has determined to have such potential for abuse as to warrant regulation under the CSA. Some of these substances are radiolabeled materials. Radiolabeled materials are substances to which a small amount of radioactivity is added for use in various studies, such as drug metabolism and mechanisms of drug actions.

This system of records was established to facilitate DSP by enabling NIDA:

1. To verify that requests for drugs of abuse, some of which are radiolabeled, are from authorized individuals/organizations for use in a research project;

2. To verify that the amounts of the materials requested by researchers for animal, in vivo, and in vitro research are justified and available;

3. To supply controlled substances in amounts approved by the Food and Drug Administration (FDA) to researchers conducting research with human subjects;

4. To ship these materials securely in accordance with CSA and the Atomic Energy Act; and

5. To maintain records of these transactions.

FDA also may use the records in routine inspections in accordance with FDA's responsibilities to develop standards on the composition, safety, and efficacy of drugs administered to humans, and to monitor experimental usage of drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. We may disclose the record of an individual to a congressional office in response to a verified inquiry from the congressional office made at the written request of the individual.

2. We may disclose information to DEA, DOJ, to enable DEA to carry out its responsibilities as described in the Controlled Substances Act of 1970.

3. An NIH contractor routinely uses the records in this system to ship controlled substances to authorized recipients. Such contractor is required to maintain Privacy Act safeguards with respect to these records.

4. An NIH contractor may have access to the records in this system in the performance of its software modification/correction tasks specified in its contract. Such contractor is required to maintain Privacy Act safeguards with respect to these records.

5. The Department of Health and Human Services (HHS) may disclose information from this system of records to the Department of Justice, or to a court or other tribunal, when (a) HHS, or any component thereof; or (b) any HHS employee in his or her official capacity; or (c) any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or (d) the United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the court or other tribunal is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

NIDA maintains "hard copy" records in file folders and automated records on computer disk.

RETRIEVABILITY:

Authorized NIDA and contractor personnel index and retrieve the computerized records by a researcher code number assigned by a computer program at the time a new record is established. Authorized NIDA personnel index and retrieve "hard copy" records by researcher's name. NIDA maintains a computerized, alphabetical cross-reference list that matches names and numbers.

SAFEGUARDS:

1. *Authorized users:* The Chief, Research Technology Branch and his or her support staff, program assistant and clerk-typist, and the contracts' project directors and their support staffs have access to the records.

2. *Physical safeguards:* The "hard copy" records and main computer are physically located at the Parklawn Building, Rockville, Maryland. The computerized records are kept in a room with limited admittance. The room is locked after working hours. The "hard copy" records are stored in locked file cabinets in a room with very limited admittance. This room is also locked after working hours. The Parklawn Building has a 24-hour guard patrol service.

3. *Procedural safeguards:* The terminals are housed in a secured work area with limited admittance. Contract personnel use a password identification system to obtain access; NIDA changes the passwords periodically.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security," in the HHS ADP Systems Security Manual.

RETENTION AND DISPOSAL:

NIDA maintains an individual's record for 5 years after the researcher's last request for, or shipment of, a drug of abuse. We consider the record inactive after that, and erase it from the computer disk by a delete routine. The delete routine automatically deletes the computerized cross-reference as well. We destroy the "hard copy" record by shredding. The system is checked once a year for inactive records.

SYSTEM MANAGER(S) AND ADDRESS:

Project Director, Drug Supply Program, Research Technology Branch, Division of Preclinical Research, Room 10A–13, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. An individual may learn if a record exists about himself or herself upon written request. The request should include the researcher's name and business address at the time of last shipment. The request must be signed in ink by the individual researcher. Verifiable proof of identity is required.

RECORD ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also reasonably specify the record contents being sought. An individual may also request an accounting of disclosures of his/her record, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Initial source is the individual researcher. Some of the DEA registration information provided by a researcher is verified through a DEA computer check. FDA provides information concerning type and amount of controlled substance(s) to be shipped to an individual researcher for research projects involving human subjects.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09–25–0211

SYSTEM NAME:

Intramural Research Program Records of In- and Out-Patients With Various Types of Alcohol Abuse and Dependence, Relatives of Patients With Alcoholism, and Healthy Volunteers, HHS/NIH/NIAAA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

A list of specific project sites is available from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In- and out-patients with alcohol abuse and dependence, alcohol-induced organic brain syndromes; their relatives; and healthy volunteers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Research data of wide variety including biochemical measures, psychophysiological and psychological tests, questionnaires, clinical and behavioral observations and interviews, physical examinations, and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, as amended, sections 301 (42 U.S.C. 241) and 510 (42 U.S.C. 290bb). These sections authorize the conduct of general health research and research into alcoholism and alcohol abuse.

PURPOSE(S) OF THE SYSTEM:

These records are used for diagnosis and treatment of patients with alcohol abuse and dependence and related conditions; behavioral research relating to the causes, diagnoses, and treatment of addictions; and basic research on behavioral and biological processes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system are covered by section 527 of the Public Health Service Act (42 U.S C. 290ee–3) and 42 CFR, chapter I, subchapter A, part 2, on confidentiality of alcohol and drug abuse patient records. In accordance with these regulations, the records are confidential and may only be disclosed with the written consent of the patient with specific restrictions, and without the patient's consent in the following instances: (1) To medical personnel to the extent necessary to meet a bona fide emergency; (2) to qualified personnel for the purpose of conducting scientific research; or (3) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, after certain considerations, and with appropriate safeguards. Routine uses of information in this system are limited to the following:

1. A record may be disclosed for a research purpose, when the Department: (a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained; (b) has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring; (c) has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law; (d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

2. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office at the written request of that individual, in accordance with 42 CFR, chapter I, subchapter A, part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records may be stored in file folders, on index cards, computer tapes and disks, microfiche, microfilm and audio and video tapes. Normally the factual data, with study code numbers, are stored on computer tape or disk, while the key to personal identifiers is stored separately, without factual data, in paper files.

RETRIEVABILITY:

During data collection stages and followup, retrieval by personal identifier (e.g., name or medical record number) is necessary. During the data analysis stage, data are normally retrieved by variables of interest, e.g., age, diagnosis, etc.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for the particular records maintained in each project. Depending on the sensitivity of the project, additional safeguards may be added.

1. *Authorized users:* Only NIAAA medical and research staff have access to these records, as authorized by the system manager.

2. *Physical safeguards:* Records are stored in locked rooms, locked file cabinets, and/or secured computer facilities. Personal identifiers and link codes are separated as much as possible and stored in locked files.

3. *Procedural safeguards:* Collection and maintenance of data are consistent with legislation and regulations for protection of human subjects, informed consent, confidentiality, and confidentiality specific to drug and alcohol abuse patients. Computer data access is limited through the use of key words, a series of account numbers, and passwords which are changed frequently and known only to authorized personnel.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual, and Part 6, "ADP System Security" in the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records are held for 5 years after completion of the project, retired to a Federal Records Center, and subsequently disposed of after 10 years.

SYSTEM MANAGER(S) AND ADDRESS:

Clinical Director, Laboratory of Clinical Studies, Division of Intramural Clinical and Biological Research, National Institutes of Health, Building 10, Room 3B–19, 9000 Rockville Pike, Bethesda, Maryland 20892

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above. Provide notarized signature as proof of identity. The request should include as much of the following information as possible: (a) Full name; (b) nature of illness (if any); (c) title of study; (d) name of researcher conducting study. An individual who requests notification of or access to a medical/dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. A parent or guardian who requests notification of child's/incompetent person's record shall at the time the request is made designate a family physician or other health professional (other than a family member) to whom the record, if any,

will be sent. The designee will receive the record in all cases and upon review will determine whether the record should be made available to the parent or guardian.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought, with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Information gathered from individuals under study, either patient or normal subject, contract surveys, hospital records, medical and nursing staff notes, and from Privacy Act system of records 90–25–0099, "Clinical Research: Patient Medical Records, HHS/NIH/CC."

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

9–25–0212

SYSTEM NAME:

Clinical Research: Neuroscience Research Center Patient Medical Records, HHS/NIH/NIMH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Neuroscience Research Center at Saint Elizabeths Hospital, William A. White Building, Room 144, 2700 Martin Luther King, Jr. Avenue, SE., Washington, DC 20032, and at private organizations under contract. A list of specific sites is available from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Registered clinical research patients and some individuals not registered as patients but seen for diagnostic tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inpatient and outpatient medical clinical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act, section 301 (42 U.S.C. 241), "Research and Investigation," and section 321 (42 U.S.C. 248), "Hospital."

PURPOSE(S) OF THE SYSTEM:

(1) To provide a continuous history of the treatment afforded individual patients in the National Institute of Mental Health Clinical Research Program at the William A. White Building.

(2) To provide a data base for the clinical research conducted at the William A. White Research program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a congressional office from the record of an individual in response to a verified inquiry from the congressional office made at the written request of that individual.

2. Social work staff may give pertinent information to community agencies to assist patients for their families.

3. Referring physicians receive medical information for continuing patient care after discharge.

4. Information regarding diagnostic problems, or having unusual scientific value may be disclosed to appropriate medical research organizations or consultants in connection with treatment of patient or in order to accomplish the research purposes of this system. For example, tissue specimens may be sent to the Armed Forces Institute of Pathology; x-rays may be sent for the opinion of a radiologist with extensive experience in a particular kind of diagnostic radiology. The recipients are required to maintain Privacy Act safeguards with respect to these records.

5. Records may be disclosed to representatives of the Joint Commission on Accreditation of Hospitals conducting inspections to ensure that the quality of the William A. White Clinical Research Program medical recordkeeping meets established standards.

6. Certain infectious diseases are reported to government jurisdictions as required by law.

7. Medical information may be disclosed to tumor registries for maintenance of health statistics.

8. The Department contemplates that it may contract with a private firm for transcribing, updating, copying, or otherwise refining records in this system. Relevant records will be disclosed to such a contractor. The contractor will be required to comply with the requirements of the Privacy Act with respect to such records.

9. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending a claim against the Public Health Service based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, disclosure may be made to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders and/or on microfiche, and on computer tapes. Files are stored in locked file cabinets or locked rooms.

RETRIEVABILITY:

The records are retrieved by unit number and patient name.

SAFEGUARDS:

1. *Authorized users:* Employees maintaining records in this system are instructed to grant regular access only to physicians and dentists and other health care professionals officially participating in patient care and to contractors or to NIMH researchers specifically authorized by the system manager.

2. *Physical safeguards:* All record facilities are locked when system personnel are not present.

3. *Procedural safeguards:* Access to files is strictly controlled by the system manager. Records may be removed only by system personnel following receipt of a request signed by authorized user. Access to computerized records is controlled by the use of security codes known only to the authorizer user. Codes are user- and function-specific. Contractor compliance is assured through inclusion of Privacy Act requirements in contract clauses, and through monitoring by contract and project officers. Contractors who maintain records in this system are instructed to make no disclosure of the records except as authorized by the system manager.

4. *Implementation guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General

Administration Manual, and Part 6, "ADP System Security" in the HHS Information Resource Management Manual.

RETENTION AND DISPOSAL:

Records are retained for 5 years after last discharge or upon death of a patient and then transferred to the Washington National Records Center, where they are retained until 30 years after discharge or death.

SYSTEM MANAGER(S) AND ADDRESS:

Clinical Director, Neuroscience Research Center, Division of Intramural Research Programs, National Institute of Mental Health, Saint Elizabeths Hospital, Room 133, William A. White Building, 2700 Martin Luther King Jr., Avenue, SE., Washington, DC 20032.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System manager at the address above. An individual or a legally authorized representative may learn if a record exists about that individual upon written request with notarized signature. The request should include: (a) Full name or any alias used, (b) social security number, and (c) approximate time of participation in the hospital/project.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a family physician or health professional (other than a family member) to whom the record will be released. The representative must verify relationship to the individual as well as his/her own identity.

A parent or guardian who requests notification of, or access to, a child's/incompetent person's medical record shall designate a family physician or other health professional (other than a family member) to whom the record, if any, will be sent. The parent or guardian must verify relationship to the child/incompetent person as well as his/her own identity.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address specified under Notification Procedures above and reasonably identify the record, specify the information being contested, and state the corrective action sought and the reasons for correcting the information, along with supporting justification to show how the record is inaccurate, incomplete, or irrelevant.

RECORD SOURCE CATEGORIES:

Referring physicians, other medical facilities (with patient's consent), patients, relatives of patients.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93–459 Filed 1–12–93; 8:45 am]

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federal register

Wednesday
January 13, 1993

Part III

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 770 et al.
Determination of Undue Concentration of Poverty-Level Population; Conforming Amendments; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 770, 882, 889, 890, 941

[Docket No. R–93–1627; FR–3256–I–01]

RIN 2501–AB37

Determination of Areas of Undue Concentration of Poverty-Level Population; and Conforming Amendments

AGENCY: Office of the Secretary, HUD.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends HUD's regulations to create a new regulatory part, which establishes objective, quantitative criteria for determining whether a proposed site for HUD-assisted housing contains an undue concentration of persons living in poverty (poverty-level population). The "undue concentration" determination is one of the site and neighborhood standards currently applied to the selection of sites for HUD-assisted housing. These site and neighborhood standards are codified in HUD's regulations governing programs that involve construction, rehabilitation and acquisition of HUD-assisted housing. The existing undue concentration standard, however, does not set out the criteria by which a determination of undue concentration is to be made.

Accordingly, this rule creates a new regulatory part, which prescribes uniform and objective criteria for making an undue concentration determination. This rule also makes conforming amendments to other regulations to reference the standards set forth in new part 770. The purpose of this rule is to ensure that proposed sites for HUD-assisted housing are evaluated under the undue concentration standard in a uniform and consistent manner.

DATES: *Effective Date:* February 12, 1993.

Comment Due Date: March 15, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying on weekdays between 7:30 a.m. and 5:30 p.m. at the above address.

FOR FURTHER INFORMATION CONTACT: David E. Shenk, Director of the Division of Economic and Market Analysis, Office of Policy Development and Research, Department of Housing and Urban Development, room 8222, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone (202) 708–0577 or (202) 708–0770 (TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

HUD's approval of a proposed location, or site, for HUD-assisted housing is conditioned upon the site meeting certain standards. These standards, referred to as "site and neighborhood standards," assess the suitability of the proposed site, and the area surrounding the site, to accommodate and sustain assisted housing. The site and neighborhood standards address such issues as the area's need for subsidized housing, the environmental impact on the area of additional multifamily housing, the area's concentration of minority residents, and the area's concentration of low-income persons. These standards are codified in HUD's regulations governing programs that involve construction, rehabilitation and acquisition of HUD-assisted housing. (See, *e.g.*, 24 CFR 882.404, 882.708, 941.202.)

The standard for assessing the concentration of low-income persons has been codified, to date, as follows—"the site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of lower income persons." (See 24 CFR 880.206, 881.206, 882.404, 882.708, 883.309, 941.202.) This language appropriately reflects the policy intended to be served by this standard (the undue concentration standard)—promoting the provision of assisted housing in a variety of locations by avoiding significant concentrations of low-income families in any one section of a metropolitan area. However, the language fails to explain the methodology to be used to ensure that this policy is served. To date, HUD has not provided any detailed guidance, in regulation or handbook, concerning how a determination is to be made that the proportion of lower income persons residing in the area of a proposed site for HUD-assisted housing is sufficiently high that approval of additional assisted housing for that area would result in an undue concentration of assisted persons.[1]

Before issuance of this rule, HUD had refrained from requiring use of quantitative, objective criteria in making an undue concentration determination on the premise that a proper undue concentration determination requires HUD's Regional and Field Offices (who have responsibility for making undue concentration determinations) to assess a wide variety of subjective, non-quantitative local factors. HUD was concerned that prescribing quantitative criteria, applicable to all sites, would interfere unfairly with the flexibility needed at the local level to consider local factors and conditions. However, a recent study of undue concentration reviews performed throughout the HUD Regions disclosed that there was less reliance and decision-making based on local subjective factors, and greater reliance on locally-developed quantitative, objective criteria.

The study revealed that all the Regions applied distinct percentage thresholds (although varied, from Region to Region) to determine whether an area under consideration for HUD-assisted housing contained an undue concentration of lower-income persons or assisted persons, or both, and several Regions used a percentage threshold as a rigid benchmark for determining undue concentration. The study also revealed that several Regions used census tracts to define the geographical boundaries of the area under consideration, and relied primarily on the most recent decennial census data. The study on undue concentration reviews also included interviews with the HUD Regional and Field officials responsible for undue concentration determinations. The study disclosed that the majority of these officials supported uniform guidance for arriving at undue concentration determinations.

On the basis of this study, HUD has concluded that a better and preferred approach to an undue concentration determination would be one that applies uniform, objective factors. The substantial reliance by the Regions on objective criteria, rather than on subjective criteria, indicates to HUD that, contrary to its initial assumption, determining the concentration of lower income persons is a determination that

[1] The "undue concentration" determination should not be confused with HUD's determination of whether a proposed location for HUD-assisted housing is in an area with a concentration of minority residents. Although related, the undue concentration and minority concentration determinations are two separate and distinct determinations. This rule only addresses the undue concentration requirement.

is made more easily, and perhaps more accurately, by applying objective criteria.

HUD also has concluded on the basis of its study that if objective criteria are to applied, then the same objective criteria should be applied throughout all the Regions to reduce disparity in undue concentration determinations. HUD noted that although the Regions applied different percentage thresholds to determine undue concentration, the differences were not extreme, but nevertheless produced varying results for sites with almost identical characteristics. The Regions' use of similar, if not identical, percentage thresholds indicates that use of uniform, quantitative criteria in the undue concentration process would not unfairly interfere with local assessments of undue concentration.

Additionally, HUD has concluded, following its review of local undue concentration determinations, that the fundamental goal of the undue concentration standard (and indeed of all the site and neighborhood standards) is not so much to identify the most suitable site for assisted housing, because a site can be approvable under HUD's site and neighborhood standards without being the most ideally suited site for a HUD-assisted housing development. Rather, the fundamental goal of the undue concentration standard is to exclude sites in those areas that are clearly unsuitable for assisted housing—those areas, which because of social and economic conditions, are unable to accommodate and sustain assisted housing. HUD has determined that this fundamental goal can be achieved by application of the undue concentration standard in a uniform and objective manner. Accordingly, new part 770 establishes uniform, numerical criteria for making an undue concentration determination.

Changes to Undue Concentration Standard

In revising the undue concentration standard, HUD has not only introduced numerical criteria by which a determination of undue concentration is to be made, but has made certain significant changes to the undue concentration concept.

First, the revised undue concentration standard shifts the focus from the number of assisted persons and the number of lower-income persons in the area of the proposed site to a single group—the number of persons living at or below the poverty level (hereafter, "poverty-level population"). The poverty income thresholds were developed by the Federal Government for administrative uses, for example, as a criterion for determining eligibility for some low-income assistance programs, such as the Community Services Block Grant program and the Head Start program. The U.S. Bureau of the Census uses these thresholds to determine the poverty status of persons based on income data obtained from the decennial census. HUD is adopting the poverty income standard for using in making undue concentration determinations because research sponsored by HUD found a significant relationship between high levels of poverty and undesirable neighborhood living conditions.

The primary research on this issue is described in an article published by the National Research Council in a book entitled Inner-City Poverty in the United States (L. Lynn, Jr., and M. McGeary eds. 1990). In this article, the authors concluded that the neighborhoods with high rates of poverty population exhibited most of the social and physical environmental problems that would make them undesirable places to live. The researchers chose the 40 percent poverty population standard after mapping census tract statistics and visiting a number of the cities. Their observations led them to conclude that tracts exceeding this threshold are typically characterized as having undesirable living conditions. The research included analysis showing that these neighborhoods generally had the highest levels of unemployment, incidence of crime, single parent families receiving assistance, and percentage of population with less than a high school education. A longitudinal study of 1970 and 1980 data also revealed that most of these neighborhoods had experienced an out-migration of residents who were not poor. City and local Census Bureau officials consulted by the researchers concurred in this assessment.

It should be noted that HUD does not use the poverty income standard to determine eligibility for HUD-assisted housing. The applicable statutes governing HUD's assisted housing programs require HUD to develop income limit schedules which are based on metropolitan area or nonmetropolitan county median incomes. These income limits are separate and distinct from the poverty standard. In particular, the income limits used for HUD assisted housing are locally based and have adjustments for housing costs.

The poverty income standard also differs from the criteria that are used by local jurisdictions to define areas of low-income concentration for purposes of a Comprehensive Housing Affordability Strategy (CHAS). (See 24 CFR part 91) HUD provides these jurisdictions with information from the decennial census on households in the low-income categories below 80 percent, 50 percent and 30 percent of the local median family income. The undue concentration standard based on poverty income differs from the CHAS low-income standard in that the poverty income standard is intended to identify a subset of low-income census tracts that also have significant social problems. As such, the areas identified as having reached the poverty income threshold are more distressed and troubled than areas that are categorized in the CHAS as low-income.

On the basis of its research, HUD has determined that the income level with which the undue concentration standard should be concerned is poverty-level, and that "concentration" should be measured without regard to whether the poverty-level population resides in assisted housing. The areas where social and economic conditions are undesirable for potential residents and untenable for sustaining assisting housing are those areas that contain a significant concentration of persons below the poverty level. HUD believes that by focusing solely on the proportion of poverty-level population, the undue concentration standard will provide a more accurate assessment of areas that are socially and economically troubled and, therefore, unsuitable for additional assisted housing.

Second, the revised undue concentration standard combines the "high proportion" and "undue concentration" aspects of the former undue concentration standard. With the focus of the standard now solely on the poverty-level population, the standard no longer requires two measurement components—one to assess the concentration (undue concentration) of assisted housing, and one to assess the concentration (high proportion) of lower income persons. HUD believes that the concentration of poverty level population more accurately describes what is considered acceptable or unacceptable in the area in which HUD-assisted housing is proposed to be located. HUD will exclude from consideration as sites for HUD-assisted housing those sites located in areas that contain an unacceptably high proportion (an undue concentration) of poverty-level population. (The percentage of poverty-level population that identifies an area as being an area of undue concentration is discussed later in this preamble.)

Third, the undue concentration standard has been revised to promote a single objective. As noted earlier, the undue concentration standard has, to date, been set forth in regulation as follows: "the site must promote greater choice of housing opportunities *and* avoid undue concentration of assisted persons in areas containing a high proportion of lower income persons." (Emphasis *added*.) The revised undue concentration standard establishes its objective as promoting a greater choice of housing opportunities by avoiding the location of HUD-assisted housing in areas with significant concentrations of persons living below the poverty level.

The following overview presents a summary of the principal provisions of new part 770, and discusses the additional changes that have been made to the undue concentration standard.

Overview of Interim Rule

Purpose

The interim rule sets forth the purpose of the undue concentration standard, which is to promote a greater choice of housing opportunities by avoiding the location of assisted housing developments in areas containing an undue concentration of poverty level population. These areas, because of their high poverty rate, have been determined to be socially and economically untenable for sustaining assisted housing. (As discussed later in this preamble, under the "Applicability" section, these "areas" do not include nonmetropolitan areas.)

As discussed previously, the undue concentration standard implements an important HUD policy—promoting the provision of assisted housing in a variety of locations by avoiding areas with significant concentrations of poverty-level populations. This policy is consistent with objectives set forth in various statutes under which HUD administers its programs. These statutes include: The Housing Act of 1949 (42 U.S.C. 1441–1490h) and its objective of eliminating substandard and other inadequate housing through the clearance of slums and blighted areas; and title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320) and its objective of reducing the isolation of income groups within communities and geographic areas.

The interim rule also provides that the purpose of new part 770 is to establish objective and quantitative criteria for making an undue concentration determination, and thus, to ensure that applications submitted in connection with the construction, rehabilitation or acquisition of HUD-assisted housing are evaluated fairly and uniformly with respect to the undue concentration site standard.

Applicability

The interim rule sets forth which HUD programs are subject to the revised undue concentration standard (covered program). HUD programs not listed in the interim rule are not covered by the revised undue concentration standard. This section of the preamble lists the HUD programs subject to the revised undue concentration standard. This section of the preamble also discusses why certain HUD programs, which involve construction, acquisition or rehabilitation of housing, are not subject to the revised undue concentration standard.

Covered HUD Programs

The revised undue concentration standard is applicable to the following HUD programs:

—Section 8 Housing Assistance Payments Program—Existing Housing; Special Procedures for Moderate Rehabilitation, 24 part 882, subpart D;
—Section 8 Housing Assistance Payments Program—Existing Housing; Section 8 Certificate Program Attached to Units (Project-Based Certificate Assistance) 24 part 882, subpart G;
—Supportive Housing for the Elderly, 24 CFR part 889;
—Supportive Housing for Persons with Disabilities, 24 CFR part 890;
—Public Housing Development, 24 CFR part 941.

Coverage of "Acquisition" of Housing

To date, the undue concentration standard has not been expressly applicable to the "acquisition" of housing assisted by HUD. The undue concentration has been applied to rehabilitation, which may involve acquisition. Two new programs—Supportive Housing for the Elderly (24 CFR part 889), and Supportive Housing for Persons with Disabilities (24 CFR part 890) have expressly made their site and neighborhood standards applicable to the acquisition of housing. In amending the site and neighborhood standards of these programs to include the undue concentration standard, the revised undue concentration standard is made applicable to the acquisition of housing.

Site and neighborhood standards for HUD's public housing development program (24 CFR part 941) currently are not applicable to the acquisition of public housing. However, HUD is developing a rule which would make comprehensive amendments to part 941 to update the regulations of this part to conform to recent statutory amendments applicable to public housing.[2] This rule would make the prescribed site and neighborhood standards (including the undue concentration standard), expressly applicable to the acquisition of public housing.

HUD Programs Not Covered

The revised undue concentration standard is not applicable to the following programs:

—Section 8 Housing Assistance Payments Program for New Construction (24 CFR part 880);
—Section 8 Housing Assistance Payments Program for Substantial Rehabilitation (24 CFR part 881);
—Section 8 Housing Assistance Payments Program for State Housing Agencies (24 CFR part 883).

The previous undue concentration standard was applicable to the above three programs. However, the new funding authority for these three programs has been repealed for nine years, and the regulations governing these programs have been retained only for their management content. The interim rule therefore does not amend these regulations to incorporate the revised undue concentration standard.

In addition to the above three programs, the revised undue concentration standard is not applicable to the following Homeless Housing Assistance Programs of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301–11404c), which include:

—Emergency Shelter Grants (24 CFR part 576);
—Transitional Housing (24 CFR part 577);
—Permanent Housing for Handicapped Homeless Persons (24 CFR part 578);
—Single Room Occupancy Housing (24 CFR part 882, subpart H); and
—Shelter Plus Care (24 CFR subtitle A, appendix D).

The undue concentration standard also is not applicable to the Housing Opportunities Program for Persons with Aids (24 CFR part 574).

The Homeless Housing Assistance Programs and the Housing Opportunities Program for Persons with AIDS are not subject to the revised undue concentration standard because these programs are intended to provide assisted housing with supportive

[2] See Department of Housing and Urban Development Semiannual Regulatory Agenda, published in the **Federal Register** on November 3, 1992 (57 FR 51392); see, especially, sequence number 1501 at 57 FR 51436, titled "Public Housing Development—Program Amendments."

services for special needs population (e.g., persons with disabilities, the homeless, the terminally ill) for the purpose of (1) improving living conditions for special needs populations already living in low-income areas, or (2) providing assisted housing to complement existing neighborhood supportive services for special needs populations. Application for the undue concentration standard to these programs would interfere with the objectives of these programs.

Additionally, the undue concentration standard is not applicable to HUD's homeownership programs: The HOPE Programs (HOPE is an acronym for "Homeownership and Opportunity for People Everywhere"), including the HOPE for Public and Indian Housing Homeownership Program, HOPE for Homeownership of Multifamily Units Program, and HOPE for Homeownership of Single Family Housing Programs (these programs are codified as appendix A to subtitle A of 24 CFR); the Low Rent Housing Homeownership Opportunities Program (24 CFR part 904); and the section 5(h) Homeownership Program (24 CFR part 906). These programs are not subject to the undue concentration standard because their purpose is not the establishment of additional HUD-assisted housing in certain areas. The purpose of these programs is to provide homeownership opportunities for eligible low-income families and individuals by assisting these families and individuals acquire ownership of single family homes, or units in multifamily dwellings, including public and Indian housing developments. These programs, in themselves, constitute a means for stabilizing and upgrading neighborhood conditions.

The rules does not apply to the HOME Investment Partnerships Program (24 CFR part 92) because that program is a block grant, and Congress intended to allow flexibility to local governments in making use of the funds, within the parameters established by the statute. For HUD to impose a rigid constraint on the location of assisted housing under HOME would run counter to the local discretion intended by Congress.

Exemption for Nonmetropolitan Areas

The standard is not applicable to nonmetropolitan areas. Because nonmetropolitan areas have lower population densities than metropolitan areas, the concentration of certain population groups is not a concern in these areas. Thus, application of the undue concentration standard to nonmetropolitan areas would be burdensome without serving a useful purpose.

Date of Applicability of Revised Undue Concentration Standard

The interim rule clarifies that evaluation of a site under the criteria set forth in new part 770 only would be applicable to applications for assistance submitted in response to a notice of funding availability (NOFA), published after the effective date of this interim rule, that is soliciting applications for construction, rehabilitation or acquisition of housing that is subject to HUD's site and neighborhood standards.

Responsibility for Undue Concentration Determinations

The interim rule clarifies that HUD's Regional and Field Offices have responsibility for evaluating the area in which HUD-assisted housing is proposed to be located.

The Relevant Population

As discussed earlier in this preamble, the revised undue concentration standard focuses on the poverty-level population of the area of the proposed site. HUD believes that attention solely to the percentage of poverty-level in the area of the proposed site population will provide a more accurate basis for determining areas that are socially and economically troubled, and which, therefore, should be excluded from consideration as suitable locations for assisted housing. HUD further believes that this shift in focus provides a more direct and simplified method for making an undue concentration determination.

In new part 770, "poverty-level population" refers to those persons who are living below the poverty level, as determined by the U.S. Bureau of the Census (Census Bureau). The number of persons classified as being above or below the poverty level in census tracts is based on information contained in the decennial census.

Defining the Area of the Project

The first step in making an undue concentration determination is defining the geographical boundaries of the area of the proposed site for HUD-assisted housing. New part 770 defines the area of the site or "site area" as the census tract, or census tracts if the proposed site area is located in more than one census tract or borders another tract, in which the HUD-assisted housing is proposed to be located. HUD selected the census tract as the applicable area because the census tract constitutes a predetermined geographic area for which there exists considerable social and economic data compiled by the Census Bureau. Census tract boundaries are established cooperatively by local Census Statistical Areas Committees in accordance with Census Bureau guidelines. As noted by the Census Bureau, in the technical appendices of census tract publications, census tracts "are designed to be relatively homogeneous areas with respect to population characteristics, economic status, and living conditions." (See Appendix A, "Area Classifications", in Summary Population and Housing Characteristics, 1990 CPH–1, U.S. Department of Commerce, Bureau of the Census.)

Defining Undue Concentration

New part 770 establishes a clear numerical standard for determining whether a site area contains an undue concentration of poverty-level population. Part 770 provides that if the percentage of the site area's poverty-level population is equal to or greater than 40 percent of the total population of the area, or will be equal to or greater than 40 percent of the total population if the proposed housing is approved for HUD assistance, then the site area will be determined to have an undue concentration of poverty-level population.

Use of the 40 percent threshold is based on HUD-sponsored research that related the incidence of poverty to the incidence of social problems in census tracts and neighborhoods. The research found that the 40 percent criterion provided the most distinct dividing line between neighborhoods that contain a high level of poverty, and those that, in addition to having a high level of poverty, also have significant social problems. The research involved mapping census tract statistics and conducting on-site assessments in a number of urban cities in the United States. The research revealed that census tracts and neighborhoods with a minimum of 40 percent poverty-level population experienced significantly higher levels of unemployment, higher incidence of crime, higher percentage of residents with less than a high school education, than did census tracts with a poverty-level population below the 40 percent level.

Determining Areas of Undue Concentration

To determine whether a site area contains a poverty-level population of 40 percent or more, new part 770 requires the applicable HUD office to consult the most recent decennial census data available to determine the percentage of persons in the site area who have incomes below the poverty

level. If the census data reveal that the population for the site area under review is below the 40 percent threshold, a determination must be made whether approval of HUD-assisted housing for that area would increase the poverty level population of the site area to the 40 percent threshold. To make this determination, part 770 provides that the applicable HUD office must divide the estimated total poverty-level population of the site area (estimated to include the expected poverty-level population of the proposed assisted housing development) by the estimated total population of the site area (estimated to include the total expected population of the proposed assisted housing development). This procedure is as follows:

(1) *Determining the estimated total population of the site area.* To determine the estimated total population of the site area, the number of persons residing in the site area shall be added to the estimated total population of the proposed housing development.

(a) The number of persons residing in the site area shall be determined from the most recent decennial census data available.

(b) The estimated total population of the proposed housing development is determined by multiplying (i) the average number of persons for each unit size of the development, by (ii) the total number of units of that size in the proposed housing development. The total number of persons for each unit size are then added, and the sum represents the estimated total population of the proposed housing.

Unit size is determined by the number of bedrooms in the unit. The average number of persons per unit size is as follows, based on occupancy guidelines for HUD assisted housing:

Size of unit	Average persons per unit
Efficiency (0-bedroom)	1
One bedroom	1.5
Two bedrooms	3
Three bedrooms	4.5
Four bedrooms	6

The revised undue concentration standard further provide that for units with more than four bedrooms, the average number of persons per bedroom for general occupancy units is 1.5 persons. For units in elderly and disabled housing, the averages are: One person for efficiency (0-bedroom) and one-bedroom units; and two persons for two-bedroom units.

(2) *Determining the estimated total poverty-level population of the site area.* To determine the estimated total poverty-level population of the site area, the number of poverty-level persons residing in the site area shall be added to the estimated poverty-level population of the proposed housing development.

(a) The number of poverty-level persons residing in the site area shall be determined from the most recent decennial census data available.

(b) The estimated poverty-level population of the proposed housing development shall be based on 65 percent of the estimated total population of the development, as determined under paragraph (1)(b) above. HUD has determined that, on average, 65 percent of the residents of section 8 housing and public housing have incomes below the poverty-level.

Exception to the Undue Concentration Site Standard for Revitalization of Site Area

New part 770 provides for the possibility of an exception to be granted to the undue concentration site standard on the basis of revitalization of the site area. New part 770 provides that an exception to the undue concentration standard may be granted on the basis of: (1) Revitalization of the site area initiated by the Federal Government through the designation of Federal enterprise zones; and (2) revitalization of the site area under the sponsorship or approval of the unit of general local government. These two circumstances are further discussed below.

The rule provides for an applicant seeking HUD assistance to request an exception to the undue concentration standard at the time of submission of the application for assistance. However, for this to occur, the applicant will need to know before submission of the application whether the proposed site for HUD-assisted housing constitutes an "area of undue concentration," as this term is defined in the rule. Thus, the rule provides for the applicant to request the responsible HUD office to make an undue concentration determination for the proposed site area. Where the HUD office has made such a determination, the applicant may request an exception under the revitalization of site area exception if it believes that the site qualifies under one of the two revitalization circumstances provided in the rule, and discussed below. The request for an exception must be in writing, and accompany the applicant's application for assistance. No special form for requesting an exception is required.

(1) *Federally-designated enterprise zone.* The first revitalization circumstance involves revitalization initiated by the Federal Government through the designation of Federal enterprise zones. Generally, the purpose of a Federal enterprise zone development program is to promote the revitalization of economically distressed areas, primarily by encouraging, through significant tax incentives, the formation, retention and expansion of businesses within the designated, the employment of "zone" residents, and the improvement of local services and opportunities for housing in the designated zone. (See 24 CFR part 596.) If the site area is located within the boundaries of a Federally-designated enterprise zone, an exception to the undue concentration standard will be granted automatically.

(2) *Revitalization of site area under local jurisdiction sponsorship or approval.* The second revitalization circumstance involves revitalization of the site area under the sponsorship or approval of the unit of general local government. If the site area is currently undergoing revitalization as a result of either public or private sector support (or both), and if there are firm plans for revitalization of the area that have been adopted or approved, or for which adoption or approval is pending, by the unit of general local government or another appropriate governing body, an exception to the undue concentration standard may be granted. For an exception to be granted on this basis, the responsible HUD office must verify, through a review of supporting documentation obtained by HUD with the cooperation and assistance of the applicant, that the expenditure of funds and the concentrated efforts being undertaken will result in significant improvements to the site area. If the revitalization plan is pending (for example, all planning stages are not completed, or final plan approval has not been received), any HUD approval of an assisted housing development will be conditional, and subject to the approval of the final plan by the applicable local governing body, which must occur no later than two years from the date of the assisted housing application.

Revitalization plans need not be restricted to the site area under consideration, or tailored to meet the requirements of the assisted housing application. Revitalization plans can be broader in scope, in terms of geographic area and subject matter coverage, and they can be part of city-wide redevelopment or urban renewal processes, as would be the case for a Comprehensive Housing Affordability Strategy (CHAS). However, to qualify as

an approvable exception under part 770, the revitalization activities already underway, and those proposed, must be determined to have direct physical, social and economic impact on the site area. The revitalization plans, therefore, must include the following information:

(a) A listing and evaluation of the specific projects and budget information on the amounts of State and local funds already expended, or committed for expenditure within two years, for redevelopment, revitalization and preservation efforts in the site area;

(b) A listing and evaluation of the specific projects and budget information on the amounts of Federal funds already spent or committed for Federal loan and grant programs for redevelopment, revitalization and preservation efforts in the site area;

(c) A listing of private sector investment in residential and nonresidential developments and improvements in the area, including those that are completed, under construction or are to begin construction within two years;

(d) Evidence of active steps, programs, and progress in improving social conditions and expanding services in the site area;

(e) Evidence of a continuing commitment for renewal, revitalization or preservation of the area based on the development schedule of the local revitalization plan, which shows the specific developments and activities that will have been completed or substantially underway by the time the HUD-assisted housing has been developed, and the approximate date of completion of redevelopment of the area; and

(f) If revitalization is occurring as a result of private sector support, evidence that the revitalization efforts involved will significantly improve conditions by the time the proposed HUD-assisted housing is developed.

Because a jurisdiction's housing strategy in areas of undue concentration is affected, the revitalization plan shall be referenced and made part of any Comprehensive Housing Affordability Strategy (CHAS) covering the site area.

Justification for Interim Rulemaking

It is HUD's general policy to publish a rule for notice and comment before issuing a rule for effect, in accordance with its own rule on rulemaking, codified at 24 CFR part 10. However, part 10 provides for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is determined to be "impracticable, unnecessary, or contrary to the public interest." (See 24 CFR 10.1) HUD finds that good cause exists to publish this rule for effect without first soliciting public comment in that prior public procedure is contrary to the public interest.

HUD believes that it is in the interest of applicants submitting applications for assistance for construction, rehabilitation or acquisition of HUD-assisted housing which requires site approval, that HUD prescribe uniform criteria for use in the undue concentration review process. As discussed in this preamble, to date, HUD has not established specific criteria for determining whether an area would be approvable or dispprovable under the undue concentration standard. Thus, applicants have been without adequate guidance concerning whether the sites proposed for HUD-assisted housing are possibly approvable under the undue concentration standard.

The establishment of uniform criteria to be used in the undue concentration review process will reduce the possibility of disparate treatment of sites within and among the Regions containing similar characteristics, and ensure undue concentration determinations that will advance the policy of promoting a greater choice of housing opportunities by excluding those areas determined to be the least suitable to support assisted housing.

Although this rule is being published for immediate effect, HUD requests public comments on the standards prescribed in new part 770. All public comments will be considered by HUD in the development of a final rule on this subject.

Other Matters

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the above address.

Regulatory Impact

This rule would not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets. Although the criteria for determining an undue concentration of poverty-level population has been quantified by this rule, HUD does not anticipate a significant difference between the number and types of housing sites approved or rejected under the previous standard, and those approved or rejected under the new standard.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on small entities. Applicants for HUD-assistance for construction, acquisition or rehabilitation of HUD-assisted housing are subject, under HUD's existing regulations, to certain site and neighborhood standards. These standards include avoidance of areas that contain an undue concentration of persons living in poverty. This rule establishes numerical criteria by which HUD will determine whether a proposed site area contains, or will contain if the application for HUD-assisted housing is approved, an undue concentration of poverty-level population. The establishment of this criteria will ensure acceptable, consistent and uniform project site determinations within and among HUD's Regions.

Federalism Impact

The General Counsel, as the Designated Cfficial under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule further implements HUD's stated policy, consistent with statutory objectives, to avoid locating assisted housing in areas that contain an undue concentration of persons living in poverty by establishing numerical criteria pursuant to which the HUD will determine whether a

proposed site area contains, or will contain if the application for assisted housing is approved, an undue concentration of poverty level population.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have the potential for significant impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the Order. The purpose of the revised undue concentration standard is to avoid locating assisted housing in neighborhoods where social and economic conditions are undesirable for potential residents, and untenable for sustaining assisted housing viability. No significant change in this policy will result from promulgation of this rule.

Semiannual Agenda of Regulations

This rule was listed as sequence number 1380 in HUD's Semiannual Agenda of Regulations published on November 3, 1992 (57 FR 51392, 51409) pursuant to Executive Order 12291 and Regulatory Flexibility Act.

List of Subjects

24 CFR Part 770

Grant programs—housing and community development, Reporting and recordkeeping.

24 CFR Part 882

Grant programs—housing and community development, Lead poisoning, Manufactured homes, Homeless, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 889

Aged, Low and moderate income housing, Capital advance programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 890

Disabled, Mental health programs, Civil rights, Low and moderate income housing, Capital advance programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 941

Grant programs—housing and community development, Loan programs—housing and community development, Public housing.

Accordingly, title 24 of the Code of Federal Regulations is amended by adding a new part 770, and by making conforming amendments to parts 882, 889, 890, and 941 to read as follows:

1. A new part 770 is added to read as follows:

PART 770—DETERMINATION OF AREAS OF UNDUE CONCENTRATION OF POVERTY-LEVEL POPULATION

Sec.

770.101 Purpose.
770.102 Applicability.
770.103 Definitions.
770.104 Procedures for determining areas of undue concentration.
770.105 Exception for revitalization of site area.

Authority: 42 U.S.C. 1437; 42 U.S.C. 1441; 42 U.S.C. 3608; 42 U.S.C. 5301; 42 U.S.C. 3535(d).

§ 770.101 Purpose.

The purpose of this part is to recognize the importance, in the administration of its housing programs, of promoting a greater choice of housing opportunities by avoiding the location of HUD-assisted housing in areas containing an undue concentration of persons living in poverty (poverty-level population). Accordingly, this part establishes the criteria to be used by HUD to determine whether an area in which HUD-assisted housing is located or proposed to be located contains, or would contain, if the housing were approved by HUD, an undue concentration of poverty-level population.

§ 770.102 Applicability.

(a) *Covered HUD programs.* The undue concentration site standard, as set forth in this part, is applicable to the following HUD programs:

(1) Section 8 Housing Assistance Payments Program—Existing Housing; Special Procedures for Moderate Rehabilitation (24 CFR part 882, subpart D);

(2) Section 8 Housing Assistance Payments Program—Existing Housing; Section 8 Certificate Program Attached to Units (Project-Based Certificate Assistance) (24 CFR part 882, subpart G);

(3) Supportive Housing for the Elderly (24 CFR part 889);

(4) Supportive Housing for Persons with Disabilities (24 CFR part 890);

(5) Public Housing Development (24 CFR part 941).

(b) *Exemption for nonmetropolitan areas.* The undue concentration standard is not applicable to nonmetropolitan areas.

(c) *Date of applicability.* This part is applicable to applications for assistance submitted in response to a notice of funding availability (NOFA), published after February 12, 1993, that is soliciting applications for construction, rehabilitation or acquisition of HUD-assisted housing under one of the programs set forth in paragraph (a) of this section.

§ 770.103 Definitions.

As used in this part:

Area of the site or *site area* means the census tract within a metropolitan area in which HUD-assisted housing is proposed to be located. If the assisted housing site encompasses more than one census tract, the site area is defined to include all of the affected census tracts. For assisted housing sites located on census tract boundaries, the site area means the census tract in which the assisted housing is located and the census tract(s) adjacent to the boundary on which the assisted housing development is located.

Area of undue concentration means a site area in which the HUD-assisted housing is proposed to be located, and in which the percentage of population living below the poverty-level, based on information from the most recent decennial census, is equal to or greater than 40 percent of the total population of the site area, or would be equal to or greater than 40 percent of the population of the site area, if the application for HUD-assisted housing were approved by HUD for assistance.

Census tract means the geographical area delineated by the U.S. Bureau of the Census in the most recent decennial census as a census tract. Block Numbering Areas (BNAs) are the census tract equivalents for delineating small statistical subdivisions where census tracts have not been established.

HUD or *Department* means the Department of Housing and Urban Development, including its Regional and Field Offices to which responsibility is assigned to perform functions under this part.

HUD-assisted housing means low-income housing acquired, developed (constructed) or rehabilitated with assistance provided by HUD under one or more of the programs listed in § 770.102(a).

Metropolitan area means a Metropolitan Statistical Area or Primary Metropolitan Statistical Area as established by the Office of Management and Budget.

Poverty-level population means the population of the applicable site area with incomes below the poverty level, as determined by the U.S. Bureau of the Census in the most recent decennial census.

Population means the total population of the applicable site area

based on data from the most recent decennial census.

§ 770.104 Procedures for determining areas of undue concentration.

(a) *Compliance with undue concentration standard.* Proposed sites for new construction, rehabilitation or acquisition of housing developments, for which assistance is sought under one or more of the programs listed in § 770.102(a), must promote a greater choice of housing opportunities by avoiding undue concentration of poverty-level population. To determine whether a proposed site meets this specific site and neighborhood standard, the following procedures apply.

(b) *Responsibility for determining compliance with undue concentration standard.* HUD's Regional and Field Offices have responsibility for determining whether a proposed site for HUD-assisted housing is located in an area of undue concentration, or whether the site area would become an area of undue concentration if the housing were approved for assistance.

(c) *Unacceptable site area.* Unless granted an exception to the undue concentration standard under § 770.105 of this part, or granted a waiver under HUD's general waiver authorities (24 CFR 799.101, 899.101, 999.101), a proposed site will be ineligible for approval under the undue concentration standard if the site is located in an area in which the percentage of poverty-level population is equal to or greater than 40 percent of the total population of the site area, or will become equal to or greater than 40 percent of the population of the site area, if the housing is approved for assistance.

(d) *Undue concentration determination*—(1) *Determining percentage of poverty-level population.* To determine whether a site area contains (or would contain, if proposed housing is approved for assistance) an undue concentration of poverty-level population, the applicable HUD office will consult the most recent decennial census data to determine the percentage of persons living in the site area who have incomes below the poverty level. Subject to certain exceptions set forth in § 770.105 of this part, proposed sites will be approved under the undue concentration site standard only if the percentage of poverty-level population is less than 40 percent of the population of the site area.

(2) *Determining projected increase in poverty-level population for below-threshold sites.* To determine whether a site area with a poverty-level population below the 40 percent threshold would be increased to 40 percent or greater if the site were approved by HUD, the applicable HUD office will divide the estimated total poverty-level population of the site area (estimated to include the expected poverty-level of the housing for which HUD assistance is sought) by the estimated total population of the site area (estimated to include the total expected population of the proposed housing development). The estimated total population of the site area, and the estimated total poverty-level population of the site area will be determined based on the most recent decennial census data available as follows:

(i) *Determining the estimated total population of the site area.* To determine the estimated total population of the site area, the number of persons residing in the site area shall be added to the estimated total population of the proposed housing development.

(A) The number of persons residing in the site area shall be determined from the most recent decennial census data available.

(B) The estimated total population of the development is determined by multiplying the average number of persons for each unit size of the development, by the total number of units of that size in the proposed housing development. The total number of persons for each unit size are then added, and the sum represents the estimated total population of the proposed housing development.

(C) Unit size is categorized by the number of bedrooms in the unit. The average number of persons per unit size is as follows, based on occupancy guidelines for HUD assisted housing:

Size of unit	Average persons per unit
Efficiency (0-bedroom)	1
One bedroom	1.5
Two bedrooms	3
Three bedrooms	4.5
Four bedrooms	6

For units with more than four bedrooms, the average number of persons per bedroom for general occupancy units is 1.5 persons. For units in elderly and disabled housing, the averages are: One person for efficiency (0-bedroom) and one-bedroom units; and two persons for two-bedroom units.

(ii) *Determining the estimated total poverty-level population of the site area.* To determine the estimated total poverty-level population of the site area, the number of poverty-level persons residing in the site area shall be added to the estimated poverty-level population of the proposed housing development.

(A) The number of poverty-level persons residing in the site area shall be determined from the most recent decennial census data available.

(B) The estimated poverty-level population of the proposed housing development shall be 65 percent of the estimated total population of the development, as determined under paragraph (d)(2)(i) of this section.

§ 770.105 Exception for revitalization of site area.

A proposed site for HUD-assisted housing located in an area of undue concentration may be granted an exception from the undue concentration site standard on the basis that the site area is undergoing or will undergo revitalization. For an exception to be granted on this basis, the applicant seeking HUD assistance for the proposed housing development must request a determination by the responsible HUD office that the proposed site for the housing development is located in an area of undue concentration. Where the HUD office has made such a determination, the applicant may request an exception if it believes the requirements of paragraph (a) or (b) of this section are met. The request for an exception must be: In writing; accompany the applicant's application for assistance; and identify whether an exception is requested under paragraph (a) or paragraph (b) of this section. No special form for requesting an exception is required.

(a) *Federally-designated enterprise zone.* If the site area is located within the boundaries of a Federally-designated Enterprise Zone, an exception to the undue concentration standard will be granted automatically.

(b) *Revitalization of site area under local jurisdiction sponsorship or approval*—(1) *Verifiable evidence of planned revitalization.* If the site area is currently undergoing revitalization as a result of either public or private sector support (or both), and if there are firm plans for revitalization of the area that have been adopted or approved, or for which adoption or approval is pending, by the unit of general local government or another appropriate governing body, an exception to the undue concentration standard may be granted. For an exception to be granted on this basis, the responsible HUD office must verify, through a review of supporting documentation, obtained by HUD with the cooperation and assistance of the applicant, that the expenditure of funds and the concentrated efforts being

undertaken will result in significant improvements to the site area.

(2) *Conditional approval where revitalization plans are pending.* If the revitalization plan is pending (for example, all planning stages are not completed or final approval has not been received from the applicable governing body), any HUD approval of an assisted housing development will be conditional and subject to the approval of the final plan by the applicable governing body no later than two years from the date of the assisted housing application.

(3) *Form of revitalization plans.* Revitalization plans need not be restricted to the site area or tailored to meet the requirements of the assisted housing application. Revitalization plans can be broader in scope, in terms of geographic area and subject matter coverage, and they can be part of city-wide redevelopment or urban renewal processes, as would be the case for a Comprehensive Housing Affordability Strategy (CHAS). In order to qualify as an approvable exception to under this part, the revitalization activities already underway and those proposed must be determined to have direct physical, social and economic impact on the site area.

(4) *Required components of revitalization plan.* Approvable revitalization plans must include the following information:

(i) A listing and evaluation of the specific projects and budget information on the amounts of State and local funds already expended, or committed for expenditure within two years, for redevelopment, revitalization and preservation efforts in the site area;

(ii) A listing and evaluation of the specific projects and budget information on the amounts of Federal funds already spent or committed for Federal loan and grant programs for redevelopment, revitalization and preservation efforts in the site area;

(iii) A listing of private sector investment in residential and nonresidential developments and improvements in the area, including those that are completed, under construction or are to begin construction within two years;

(iv) Evidence of active steps, programs and progress in improving social conditions and expanding services in the site area;

(v) Evidence of a continuing commitment for renewal, revitalization or preservation of the area based on the development schedule of the local revitalization plan, which shows the specific developments and activities that will have been completed or substantially underway by the time the HUD-assisted housing has been developed, and the approximate date of completion of redevelopment of the area; and

(vi) If revitalization is occurring as a result of private sector support, evidence that the revitalization efforts involved will significantly improve conditions by the time the proposed HUD-assisted housing is developed.

(5) *Relationship of revitalization plan to CHAS.* Because a jurisdiction's housing strategy in areas of undue concentration is affected, the revitalization plan shall be referenced and made part of any Comprehensive Housing Affordability Strategy (CHAS) covering the site area.

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

2. The authority for part 882 continues to read as follows:

Authority: 42 U.S.C. 1437a, 1437c, 1437f; 42 U.S.C. 3535(d).

3. In § 882.404, paragraph (b)(3) is revised to read as follows:

§ 882.404 Housing quality standards.

(b) * * *

(3) Promote a greater choice of housing opportunities by avoiding areas that contain (or would contain if the housing were approved for assistance) an undue concentration of poverty-level population, as determined under 24 CFR part 770.

* * * * *

4. In § 882.708, paragraph (d) is revised to read as follows:

§ 882.708 New construction: Site and neighborhood standards.

* * * * *

(d) The site must promote a greater choice of housing opportunities by avoiding areas that contain (or would contain if the housing were approved for assistance) an undue concentration of poverty-level population, as determined under 24 CFR part 770.

* * * * *

PART 889—SUPPORTIVE HOUSING FOR THE ELDERLY

5. The authority for part 889 continues to read as follows:

Authority: 12 U.S.C. 1701q; 42 U.S.C. 3535(d).

6. In § 889.230, a new paragraph (f) is added to read as follows:

§ 889.230 Site and neighborhood standards.

* * * * *

(f) The site must promote a greater choice of housing opportunities by avoiding areas that contain (or would contain if the housing were approved for assistance) an undue concentration of poverty-level population, as determined under 24 CFR part 770.

PART 890—SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

7. The authority for part 890 continues to read as follows:

Authority: 42 U.S.C. 8013; 42 U.S.C. 3535(d).

8. In § 890.230, a new paragraph (h) is added to read as follows:

§ 890.230 Site and neighborhood standards.

* * * * *

(h) The site must promote a greater choice of housing opportunities by avoiding areas that contain (or would contain if the housing were approved for assistance) an undue concentration of poverty-level population, as determined under 24 CFR part 770.

PART 941—PUBLIC HOUSING DEVELOPMENT

9. The authority for part 941 continues to read as follows:

Authority: 42 U.S.C. 1437b, 1437c, and 1437g; 42 U.S.C. 3535(d).

10. In § 941.202, paragraph (d) is revised to read as follows:

§ 941.202 Site and neighborhood standards.

* * * * *

(d) The site must promote a greater choice of housing opportunities by avoiding areas that contain (or would contain if the housing were approved for assistance) an undue concentration of poverty-level population, as determined under 24 CFR part 770.

* * * * *

Dated: December 24, 1992.

Jack Kemp,

Secretary.

[FR Doc. 93–744 Filed 1–12–93; 8:45 am]

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federal register

Wednesday
January 13, 1993

Part IV

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 888

[Docket No. 93-3550; FR-3346-N-01]

Section 8 Housing Assistance Payments Program—Contract Rent Annual Adjustment Factors

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of revised contract rent annual adjustment factors.

SUMMARY: The United States Housing Act of 1937 (1937 Act) requires that the assistance contracts signed by owners participating in the Department's Section 8 Housing Assistance Payments programs provide for annual or more frequent adjustment in the maximum monthly rentals for units covered by the contract to reflect changes based on fair market rents prevailing in a particular market area, or on a reasonable formula. This Notice announces revised Annual Adjustment Factors (AAFs), which are based on a formula using data on rent and utilities cost changes from the Bureau of Labor Statistics Consumer Price Index, the Bureau of the Census American Housing Surveys, and the HUD Random Digit Dialing (RDD) rent change surveys. The revised AAFs are to be used to adjust contract rents of program units in the Section 8 Housing Assistance Payment programs.

EFFECTIVE DATE: January 13, 1993.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Rental Assistance Division, Office of Public and Indian Housing (202) 708-0477 (TDD: (202) 708-0850), for questions relating to the Section 8 Voucher, Certificate, and Moderate Rehabilitation programs; James Tahash, Program Planning Division, Office of Multifamily Housing Management (202) 708-3944 (TDD: (202) 708-4594), for questions relating to all other Section 8 programs; for technical information regarding the development of the schedules for specific areas or the method used for calculating the AAFs, Michael R. Allard, Economic and Market Analysis Division, Office of Policy Development and Research (202) 708-0577 (TDD: (202) 708-0770). Mailing address for above persons: Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: Section 8(c)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(A)) requires the Department to provide for adjustments in the maximum monthly rents for units covered by the Section 8 Housing Assistance Payments (HAP) Contracts. Adjustments must reflect changes in the Fair Market Rents (FMRs) prevailing in particular market areas, or they must be based on a reasonable formula.

HUD has elected to establish the AAFs using the formula-based alternative. HUD regulations provide that the AAFs will be published annually in the **Federal Register** (24 CFR 888.202). These revised AAFs are applicable (subject to the limitations on applicability discussed below) for adjusting Contract Rents on or after November 8, 1992, the anniversary date for this publication.

Applicability of AAFs to Various Section 8 Programs

In general, AAFs established by this Notice are used to adjust Contract Rents for Section 8 program units. The following provides a general description of how AAFs apply under the several Section 8 Housing Assistance Payments programs. The application of the AAFs should be determined by reference to the HAP Contract and to appropriate program regulations or requirements.

In certain cases, AAFs are not used to adjust Contract Rents. AAFs are not used for the Section 8 Voucher program. In addition, AAFs are not used for Section 8 Certificate program units subject to 24 CFR 882.110(d), which applies to units in certain otherwise subsidized projects that are rented to Section 8 Certificate program families. (The housing assistance payment for such a unit is equal to the difference between the subsidized rent and the rent payable by the eligible family. Adjustments to the subsidized rents are made in accordance with rules and procedures governing the particular subsidized housing program involved.) In addition, AAFs are not used for units placed under HAP contract in recent years under the Section 202/Section 8 program. Instead, those rents are based on a HUD-approved budget for the project.

Contract Rents for many projects receiving Section 8 subsidies under the Loan Management provisions of 24 CFR part 886, subpart A, and for projects receiving Section 8 subsidies under the Property Disposition provisions of 24 CFR part 886, subpart C, are adjusted, at HUD's option, either by applying the AAFs or by adjusting rents in accordance with 24 CFR 207.19(e).

The AAFs apply to rental units of all bedroom sizes in each rent interval. Under the Section 8 Moderate Rehabilitation program, the public housing agency (PHA) should use the base rent, not the Contract Rent, to select the correct AAF to apply to the base rent.

Each AAF applies to a specified geographical area. Program participants should refer to the Table at the end of Schedule C that provides the list of states included in each of the ten HUD Regions and of the metropolitan areas with separate local CPI surveys (defined by counties of New England towns) to make certain that they are using the correct factors. Units located in metropolitan areas with separate local CPI surveys must use the corresponding AAFs for that metropolitan area. Units that are located in metropolitan areas without a local CPI survey or are located outside metropolitan areas must use the respective metropolitan or nonmetropolitan area AAFs for the HUD Region within which the state is located.

Owners of Section 8 units (other than units assisted under the Section 8 Certificate, Moderate Rehabilitation (both regular and SRO), Project-based Assistance Certificates, and FmHA programs) who have HAP Contracts with anniversary dates falling on November 8, 1992 through January 13, 1993 may request that the AAFs be applied retroactively to the anniversary date of their HAP Contracts. Retroactivity is permitted to avoid any detriment to owners because of HUD's delay in the annual publication, as required by 24 CFR 888.202, of the factors. For units assisted under the Section 8 Certificate, Moderate Rehabilitation (both regular and SRO), Project-based Assistance Certificates, and the FmHA programs, the factors are not applied retroactively; the annual adjustments, as of any anniversary date are determined using the AAFs most recently published in the **Federal Register** (see 24 CFR 882.108(a)(l)(i) and 884.109(b)(2)).

Calculation of Annual Adjustment Factors

In the September 26, 1991 **Federal Register** publication of the final FMRs for FY 1992, HUD announced that it intended to use the RDD survey technique as the method for obtaining the formula-based rent change factors. This year's AAFs initiate use on a national basis of the RDD regional survey results. The RDD survey method is based on a sampling procedure that uses computers to select a statistically random sample of rental housing, dial and keep track of the telephone calls and process the responses. This technique has been tested in areas where extensive Census data are

available and has been found to be very reliable. Starting this year, RDD surveys were conducted for the metropolitan parts (exclusive of CPI areas) and nonmetropolitan parts of the 10 HUD Regions, a total of 20 surveys. The results of these 20 surveys replace the previous AAFs which were based on CPI data for the four Census Regions that comprise the United States. The increased number of rent change factors covering the much smaller and more homogeneous HUD Regions result in a significant improvement over the current system.

AAFs are provided for the metropolitan parts (exclusive of CPI areas) and the nonmetropolitan parts of the ten HUD Regions, for the 73 metropolitan areas with local CPI surveys and for the State of Hawaii. The formula for calculating the AAFs for each area was developed as follows: (1) Changes in the shelter rent and utilities components were calculated based on the most recent CPI and RDD annual average change data; (2) the shelter rent factor was calculated by eliminating the effect of heating costs that are included in the rent of some of the units included in the CPI surveys; (3) the gross rent factors were calculated by weighing the rent and utility components of rent with the updated 1980 Census Regional and state components; and (4) the AAFs were then adjusted to reflect rent change variations by rent range determined from 1990 national AHS data.

Puerto Rico and the Virgin Islands use the HUD Region IV AAFs. All areas in Hawaii use the AAF schedule for Hawaii, which is based on the CPI survey for the Honolulu metropolitan area; the Pacific Islands use the HUD Region IX nonmetropolitan AAFS. The Anchorage metropolitan area has its own AAFs based on a local CPI survey; all other areas in Alaska use the HUD Region X nonmetropolitan area AAFs.

Section 8 Certificate Program AAFs for Manufactured Home Spaces

This Notice contains a separate set of AAFs for adjusting Contract Rents for manufactured home spaces. There is one factor for each area, which represents the change in the median rent for the area. These factors were derived by following steps one and two in the formula described above.

Other Matters

An environmental assessment is unnecessary, since revising Annual Adjustment Factors is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(*l*).

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this Notice do not have federalism implications and, thus, are not subject to review under the Order. The Notice merely announces the adjustment factors to be used to adjust contract rents in the Section 8 Housing Assistance Payment programs, as required by the United States Housing Act of 1937.

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has also determined that this Notice does not have potential significant impact on family formation, maintenance, and general well-being and, thus, is not subject to review under the Order. The Notice merely announces the adjustment factors to be used to adjust contract rents in the Section 8 Housing Assistance Payment programs, as required by the United States Housing Act of 1937.

The Catalog of Federal Domestic Assistance program number for Lower Income Housing Assistance programs (Section 8) is 14.156.

Accordingly, the Department publishes these Contract Rent Annual Adjustment Factors for the Section 8 Housing Assistance Payments Program as set forth in the following tables:

Dated: January 4, 1993.

Frank Keating,

Acting Secretary

BILLING CODE 4210-32-M

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
PREPARED ON 120292

HUD REGION I METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 270	1.031	1.029
$ 270 TO 319	1.029	1.027
$ 320 TO 379	1.028	1.026
$ 380 TO 429	1.026	1.022
$ 430 TO 489	1.024	1.022
$ 490 TO 539	1.023	1.017
$ 540 TO 649	1.020	1.013
$ 650 TO 759	1.017	1.011
$ 760 TO 859	1.014	1.007
$ 860 PLUS	1.011	1.007

HUD REGION II METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 230	1.040	1.038
$ 230 TO 269	1.038	1.036
$ 270 TO 319	1.036	1.034
$ 320 TO 359	1.034	1.032
$ 360 TO 409	1.032	1.023
$ 410 TO 449	1.030	1.023
$ 450 TO 539	1.026	1.020
$ 540 TO 629	1.022	1.015
$ 630 TO 719	1.018	1.012
$ 720 PLUS	1.014	1.010

HUD REGION III METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.054	1.056
$ 180 TO 219	1.051	1.050
$ 220 TO 259	1.048	1.050
$ 260 TO 289	1.046	1.047
$ 290 TO 329	1.043	1.035
$ 330 TO 359	1.040	1.035
$ 360 TO 439	1.035	1.030
$ 440 TO 509	1.030	1.023
$ 510 TO 579	1.024	1.018
$ 580 PLUS	1.019	1.018

HUD REGION IV METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 190	1.039	1.035
$ 190 TO 229	1.038	1.035
$ 230 TO 269	1.036	1.035
$ 270 TO 309	1.034	1.031
$ 310 TO 349	1.032	1.024
$ 350 TO 389	1.030	1.024
$ 390 TO 459	1.026	1.021
$ 460 TO 539	1.022	1.014
$ 540 TO 619	1.018	1.010
$ 620 PLUS	1.014	1.010

HUD REGION I NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 260	1.021	1.017
$ 260 TO 319	1.020	1.017
$ 320 TO 369	1.019	1.017
$ 370 TO 419	1.018	1.015
$ 420 TO 479	1.017	1.013
$ 480 TO 529	1.016	1.012
$ 530 TO 629	1.014	1.009
$ 630 TO 739	1.012	1.006
$ 740 TO 849	1.010	1.004
$ 850 PLUS	1.008	1.003

HUD REGION II NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 220	1.054	1.050
$ 220 TO 259	1.051	1.050
$ 260 TO 309	1.048	1.049
$ 310 TO 349	1.046	1.045
$ 350 TO 399	1.043	1.043
$ 400 TO 439	1.040	1.036
$ 440 TO 529	1.035	1.029
$ 530 TO 619	1.030	1.023
$ 620 TO 699	1.024	1.017
$ 700 PLUS	1.019	1 017

HUD REGION III NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.049	1.055
$ 180 TO 209	1.046	1.046
$ 210 TO 249	1.044	1.043
$ 250 TO 279	1.041	1.042
$ 280 TO 319	1.039	1.033
$ 320 TO 349	1.037	1.033
$ 350 TO 419	1.032	1.026
$ 420 TO 489	1.027	1.022
$ 490 TO 559	1.022	1.015
$ 560 PLUS	1.017	1.015

HUD REGION IV NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 190	1.034	1.029
$ 190 TO 229	1.033	1.029
$ 230 TO 259	1.031	1.029
$ 260 TO 299	1.029	1.025
$ 300 TO 339	1.027	1.019
$ 340 TO 379	1.026	1.019
$ 380 TO 449	1.022	1.017
$ 450 TO 529	1.019	1.008
$ 530 TO 599	1.016	1.008
$ 600 PLUS	1.012	1.008

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 120292

HUD REGION V METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.038	1.037
$ 180 TO 219	1.036	1.037
$ 220 TO 249	1.034	1.034
$ 250 TO 289	1.032	1.030
$ 290 TO 329	1.030	1.026
$ 330 TO 359	1.029	1.026
$ 360 TO 439	1.025	1.020
$ 440 TO 509	1.021	1.017
$ 510 TO 579	1.017	1.011
$ 580 PLUS	1.013	1.011

HUD REGION V NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.027	1.030
$ 180 TO 209	1.026	1.026
$ 210 TO 249	1.025	1.026
$ 250 TO 279	1.023	1.019
$ 280 TO 319	1.022	1.017
$ 320 TO 349	1.021	1.017
$ 350 TO 429	1.018	1.013
$ 430 TO 499	1.015	1.011
$ 500 TO 569	1.012	1.007
$ 570 PLUS	1.010	1.007

HUD REGION VI METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.043	1.042
$ 180 TO 209	1.041	1.041
$ 210 TO 249	1.038	1.039
$ 250 TO 289	1.036	1.033
$ 290 TO 319	1.034	1.030
$ 320 TO 359	1.032	1.026
$ 360 TO 429	1.028	1.023
$ 430 TO 499	1.024	1.017
$ 500 TO 569	1.019	1.011
$ 570 PLUS	1.015	1.011

HUD REGION VI NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 170	1.025	1.027
$ 170 TO 209	1.024	1.021
$ 210 TO 239	1.022	1.018
$ 240 TO 279	1.021	1.015
$ 280 TO 309	1.020	1.014
$ 310 TO 349	1.019	1.012
$ 350 TO 419	1.016	1.010
$ 420 TO 489	1.014	1.009
$ 490 TO 559	1.011	1.004
$ 560 PLUS	1.009	1.004

HUD REGION VII METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 180	1.050	1.056
$ 180 TO 219	1.048	1.050
$ 220 TO 249	1.045	1.047
$ 250 TO 289	1.043	1.041
$ 290 TO 319	1.040	1.033
$ 320 TO 359	1.038	1.033
$ 360 TO 429	1.033	1.028
$ 430 TO 499	1.028	1.024
$ 500 TO 579	1.023	1.017
$ 580 PLUS	1.018	1.016

HUD REGION VII NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 170	1.025	1.027
$ 170 TO 209	1.024	1.026
$ 210 TO 239	1.023	1.022
$ 240 TO 279	1.021	1.019
$ 280 TO 309	1.020	1.017
$ 310 TO 349	1.019	1.015
$ 350 TO 419	1.016	1.013
$ 420 TO 489	1.014	1.011
$ 490 TO 559	1.011	1.006
$ 560 PLUS	1.009	1.006

HUD REGION VIII METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 170	1.052	1.047
$ 170 TO 209	1.050	1.047
$ 210 TO 239	1.047	1.044
$ 240 TO 279	1.045	1.038
$ 280 TO 309	1.042	1.037
$ 310 TO 349	1.039	1.033
$ 350 TO 419	1.034	1.026
$ 420 TO 479	1.029	1.018
$ 480 TO 549	1.024	1.014
$ 550 PLUS	1.019	1.012

HUD REGION VIII NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 170	1.055	1.052
$ 170 TO 199	1.052	1.049
$ 200 TO 229	1.049	1.047
$ 230 TO 269	1.046	1.040
$ 270 TO 299	1.044	1.032
$ 300 TO 329	1.041	1.032
$ 330 TO 399	1.036	1.025
$ 400 TO 469	1.030	1.021
$ 470 TO 529	1.025	1.014
$ 530 PLUS	1.019	1.014

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
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HUD REGION IX METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.042	1.039
$ 230 TO 279	1.040	1.035
$ 280 TO 329	1.038	1.033
$ 330 TO 369	1.036	1.031
$ 370 TO 419	1.033	1.028
$ 420 TO 469	1.031	1.025
$ 470 TO 559	1.027	1.017
$ 560 TO 649	1.023	1.013
$ 650 TO 739	1.019	1.009
$ 740 PLUS	1.015	1.009

HUD REGION X METROPOLITAN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.071	1.071
$ 190 TO 229	1.068	1.067
$ 230 TO 259	1.064	1.061
$ 260 TO 299	1.060	1.057
$ 300 TO 339	1.057	1.053
$ 340 TO 379	1.053	1.044
$ 380 TO 449	1.046	1.039
$ 450 TO 529	1.039	1.029
$ 530 TO 609	1.032	1.019
$ 610 PLUS	1.025	1.019

STATE HAWAII

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 390	1.118	1.123
$ 390 TO 469	1.113	1.116
$ 470 TO 549	1.107	1.108
$ 550 TO 629	1.101	1.103
$ 630 TO 709	1.095	1.097
$ 710 TO 789	1.089	1.083
$ 790 TO 939	1.077	1.069
$ 940 TO 1099	1.065	1.056
$1100 TO 1259	1.054	1.042
$1260 PLUS	1.042	1.042

PMSA ANAHEIM-SANTA ANA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 420	1.045	1.045
$ 420 TO 499	1.043	1.041
$ 500 TO 579	1.041	1.039
$ 580 TO 659	1.039	1.034
$ 660 TO 749	1.036	1.031
$ 750 TO 829	1.034	1.027
$ 830 TO 999	1.030	1.026
$1000 TO 1159	1.025	1.022
$1160 TO 1329	1.021	1.018
$1330 PLUS	1.016	1.013

HUD REGION IX NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.045	1 043
$ 230 TO 269	1.043	1.036
$ 270 TO 319	1.041	1 036
$ 320 TO 359	1.039	1 035
$ 360 TO 409	1.036	1.031
$ 410 TO 449	1.034	1.026
$ 450 TO 539	1.030	1.020
$ 540 TO 629	1.025	1.015
$ 630 TO 719	1 021	1.010
$ 720 PLUS	1 016	1.010

HUD REGION X NONMETROPOLITAN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 180	1.068	1.069
$ 180 TO 219	1 065	1.065
$ 220 TO 249	1.061	1.055
$ 250 TO 289	1.058	1 055
$ 290 TO 319	1.054	1.052
$ 320 TO 359	1 051	1 041
$ 360 TO 429	1.044	1 035
$ 430 TO 509	1.038	1.026
$ 510 TO 579	1.031	1 020
$ 580 PLUS	1.024	1.020

PMSA AKRON, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.076	1.089
$ 210 TO 249	1.072	1.087
$ 250 TO 289	1 068	1.074
$ 290 TO 339	1.065	1.063
$ 340 TO 379	1.061	1.053
$ 380 TO 419	1.057	1.052
$ 420 TO 509	1 050	1.032
$ 510 TO 589	1 042	1.031
$ 590 TO 669	1 034	1.031
$ 670 PLUS	1 027	1.031

MSA ANCHORAGE, AK

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 310	1.114	1 131
$ 310 TO 379	1.108	1 116
$ 380 TO 439	1.103	1.102
$ 440 TO 499	1.097	1.087
$ 500 TO 559	1.091	1.087
$ 560 TO 629	1.086	1.071
$ 630 TO 749	1.074	1.057
$ 750 TO 879	1.063	1.040
$ 880 TO 999	1.052	1 040
$1000 PLUS	1.040	1 040

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PMSA ANN ARBOR, MI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 280	1.016	1.028
$ 280 TO 339	1.015	1.023
$ 340 TO 399	1.014	1.022
$ 400 TO 449	1.014	1.019
$ 450 TO 509	1.013	1.019
$ 510 TO 569	1.012	1.017
$ 570 TO 679	1.010	1.014
$ 680 TO 789	1.009	1.012
$ 790 TO 909	1.007	1.012
$ 910 PLUS	1.006	1.012

PMSA AURORA-ELGIN, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 310	1.063	1.068
$ 310 TO 369	1.060	1.065
$ 370 TO 439	1.057	1.054
$ 440 TO 499	1.053	1.045
$ 500 TO 559	1.050	1.045
$ 560 TO 619	1.047	1.037
$ 620 TO 749	1.041	1.029
$ 750 TO 869	1.035	1.021
$ 870 TO 999	1.029	1.019
$1000 PLUS	1.022	1.019

PMSA BEAVER COUNTY, PA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 190	1.054	1.040
$ 190 TO 219	1.051	1.039
$ 220 TO 259	1.049	1.033
$ 260 TO 299	1.046	1.021
$ 300 TO 329	1.043	1.013
$ 330 TO 369	1.041	1.013
$ 370 TO 449	1.035	1.000
$ 450 TO 519	1.030	1.000
$ 520 TO 599	1.025	1.000
$ 600 PLUS	1.019	1.000

PMSA BOSTON, MA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 420	1.016	1.008
$ 420 TO 499	1.015	1.007
$ 500 TO 579	1.014	1.006
$ 580 TO 669	1.014	1.005
$ 670 TO 749	1.013	1.003
$ 750 TO 829	1.012	1.000
$ 830 TO 999	1.010	1.000
$1000 TO 1169	1.009	1.000
$1170 TO 1329	1.007	1.000
$1330 PLUS	1.006	1.000

MSA ATLANTA, GA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 270	1.010	1.016
$ 270 TO 319	1.010	1.014
$ 320 TO 369	1.009	1.012
$ 370 TO 429	1.009	1.010
$ 430 TO 479	1.008	1.010
$ 480 TO 529	1.008	1.008
$ 530 TO 639	1.007	1.007
$ 640 TO 739	1.006	1.006
$ 740 TO 849	1.005	1.005
$ 850 PLUS	1.004	1.005

MSA BALTIMORE, MD

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 260	1.057	1.057
$ 260 TO 319	1.054	1.052
$ 320 TO 369	1.051	1.043
$ 370 TO 419	1.049	1.043
$ 420 TO 469	1.046	1.034
$ 470 TO 529	1.043	1.034
$ 530 TO 629	1.037	1.028
$ 630 TO 739	1.032	1.013
$ 740 TO 839	1.026	1.013
$ 840 PLUS	1.020	1.013

PMSA BERGEN-PASSAIC, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 410	1.050	1.049
$ 410 TO 499	1.047	1.048
$ 500 TO 579	1.045	1.044
$ 580 TO 659	1.042	1.040
$ 660 TO 749	1.040	1.033
$ 750 TO 829	1.037	1.033
$ 830 TO 989	1.032	1.027
$ 990 TO 1159	1.027	1.021
$1160 TO 1329	1.023	1.015
$1330 PLUS	1.018	1.015

PMSA BOULDER-LONGMONT, CO

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 270	1.045	1.041
$ 270 TO 319	1.043	1.041
$ 320 TO 379	1.041	1.034
$ 380 TO 429	1.039	1.030
$ 430 TO 479	1.036	1.026
$ 480 TO 539	1.034	1.020
$ 540 TO 649	1.030	1.013
$ 650 TO 749	1.025	1.007
$ 750 TO 859	1.021	1.007
$ 860 PLUS	1.016	1.007

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PMSA BRAZORIA, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.107	1.124
$ 230 TO 269	1.101	1.116
$ 270 TO 319	1.096	1.108
$ 320 TO 359	1.091	1.088
$ 360 TO 409	1.085	1.086
$ 410 TO 449	1.080	1.072
$ 450 TO 539	1.070	1.057
$ 540 TO 629	1.059	1.044
$ 630 TO 729	1.048	1.044
$ 730 PLUS	1.038	1.044

PMSA BROCKTON, MA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 340	1.016	1.007
$ 340 TO 409	1.015	1.005
$ 410 TO 479	1.014	1.005
$ 480 TO 549	1.014	1.004
$ 550 TO 619	1.013	1.002
$ 620 TO 679	1.012	1.002
$ 680 TO 819	1.010	1.000
$ 820 TO 959	1.009	1.000
$ 960 TO 1099	1.007	1.000
$1100 PLUS	1.006	1.000

PMSA CHICAGO, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 310	1.063	1.068
$ 310 TO 369	1.060	1.062
$ 370 TO 429	1.057	1.055
$ 430 TO 489	1.053	1.052
$ 490 TO 549	1.050	1.044
$ 550 TO 609	1.047	1.036
$ 610 TO 729	1.041	1.028
$ 730 TO 859	1.035	1.020
$ 860 TO 979	1.029	1.020
$ 980 PLUS	1.022	1.020

PMSA CLEVELAND, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.076	1.092
$ 220 TO 269	1.072	1.082
$ 270 TO 309	1.068	1.072
$ 310 TO 349	1.065	1.064
$ 350 TO 399	1.061	1.053
$ 400 TO 439	1.057	1.052
$ 440 TO 529	1.050	1.043
$ 530 TO 619	1.042	1.031
$ 620 TO 709	1.034	1.030
$ 710 PLUS	1.027	1.030

PMSA BRIDGEPORT-MILFORD, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 330	1.050	1.053
$ 330 TO 389	1.047	1.047
$ 390 TO 459	1.045	1.042
$ 460 TO 519	1.042	1.041
$ 520 TO 589	1.040	1.034
$ 590 TO 649	1.037	1.027
$ 650 TO 779	1.032	1.021
$ 780 TO 909	1.027	1.015
$ 910 TO 1039	1.023	1.015
$1040 PLUS	1.018	1.015

PMSA BUFFALO, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.056	1.053
$ 210 TO 249	1.053	1.048
$ 250 TO 289	1.050	1.044
$ 290 TO 339	1.047	1.041
$ 340 TO 379	1.044	1.033
$ 380 TO 419	1.042	1.027
$ 420 TO 499	1.036	1.027
$ 500 TO 589	1.031	1.013
$ 590 TO 669	1.025	1.013
$ 670 PLUS	1.020	1.013

PMSA CINCINNATI, OH-KY-IN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.053	1.055
$ 220 TO 259	1.050	1.050
$ 260 TO 299	1.047	1.050
$ 300 TO 349	1.045	1.037
$ 350 TO 389	1.042	1.037
$ 390 TO 439	1.040	1.029
$ 440 TO 519	1.034	1.021
$ 520 TO 609	1.029	1.016
$ 610 TO 699	1.024	1.015
$ 700 PLUS	1.019	1.015

PMSA DALLAS, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.069	1.067
$ 250 TO 299	1.065	1.058
$ 300 TO 349	1.062	1.052
$ 350 TO 399	1.058	1.048
$ 400 TO 449	1.055	1.040
$ 450 TO 499	1.052	1.029
$ 500 TO 599	1.045	1.020
$ 600 TO 699	1.038	1.011
$ 700 TO 799	1.031	1.011
$ 800 PLUS	1.024	1.011

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PMSA DANBURY, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 350	1.050	1.054
$ 350 TO 419	1.047	1.047
$ 420 TO 489	1.045	1.044
$ 490 TO 559	1.042	1.040
$ 560 TO 639	1.040	1.035
$ 640 TO 709	1.037	1.027
$ 710 TO 849	1.032	1.021
$ 850 TO 989	1.027	1.014
$ 990 TO 1129	1.023	1.014
$1130 PLUS	1.018	1.014

PMSA DETROIT, MI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 240	1.016	1.023
$ 240 TO 289	1.015	1.023
$ 290 TO 329	1.014	1.023
$ 330 TO 379	1.014	1.020
$ 380 TO 429	1.013	1.017
$ 430 TO 479	1.012	1.015
$ 480 TO 569	1.010	1.015
$ 570 TO 669	1.009	1.011
$ 670 TO 759	1.007	1.011
$ 760 PLUS	1.006	1.011

PMSA FORT WORTH-ARLINGTON, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.067	1.063
$ 230 TO 279	1.064	1.063
$ 280 TO 329	1.061	1.056
$ 330 TO 379	1.057	1.054
$ 380 TO 419	1.054	1.047
$ 420 TO 469	1.051	1.040
$ 470 TO 559	1.044	1.033
$ 560 TO 659	1.037	1.025
$ 660 TO 749	1.030	1.017
$ 750 PLUS	1.024	1.017

PMSA GARY-HAMMOND, IN

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 250	1.063	1.067
$ 250 TO 299	1.060	1.062
$ 300 TO 349	1.057	1.055
$ 350 TO 399	1.053	1.045
$ 400 TO 449	1.050	1.045
$ 450 TO 499	1.047	1.038
$ 500 TO 599	1.041	1.027
$ 600 TO 699	1.035	1.020
$ 700 TO 789	1.029	1.020
$ 790 PLUS	1.022	1.020

PMSA DENVER, CO

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.045	1.044
$ 230 TO 279	1.043	1.039
$ 280 TO 329	1.041	1.033
$ 330 TO 369	1.039	1.031
$ 370 TO 419	1.036	1.023
$ 420 TO 469	1.034	1.020
$ 470 TO 559	1.030	1.014
$ 560 TO 649	1.025	1.008
$ 650 TO 749	1.021	1.007
$ 750 PLUS	1.016	1.007

PMSA FORT LAUDERDALE-HOLLYWOOD-POMPANO BEAC

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 290	1.047	1.050
$ 290 TO 349	1.044	1.047
$ 350 TO 409	1.042	1.042
$ 410 TO 459	1.040	1.039
$ 460 TO 519	1.037	1.033
$ 520 TO 579	1.035	1.033
$ 580 TO 689	1.030	1.028
$ 690 TO 809	1.026	1.021
$ 810 TO 929	1.021	1.016
$ 930 PLUS	1.017	1.016

PMSA GALVESTON-TEXAS CITY, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 200	1.107	1.122
$ 200 TO 239	1.101	1.118
$ 240 TO 289	1.096	1.109
$ 290 TO 329	1.091	1.087
$ 330 TO 369	1.085	1.087
$ 370 TO 409	1.080	1.072
$ 410 TO 489	1.070	1.058
$ 490 TO 569	1.059	1.043
$ 570 TO 649	1.048	1.043
$ 650 PLUS	1.038	1.043

PMSA HAMILTON-MIDDLETOWN, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 220	1.053	1.055
$ 220 TO 259	1.050	1.050
$ 260 TO 309	1.047	1.046
$ 310 TO 349	1.045	1.036
$ 350 TO 389	1.042	1.036
$ 390 TO 439	1.040	1.029
$ 440 TO 529	1.034	1.021
$ 530 TO 609	1.029	1.016
$ 610 TO 699	1.024	1.015
$ 700 PLUS	1.019	1.015

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PMSA HOUSTON, TX

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.107	1.121
$ 210 TO 249	1.101	1.117
$ 250 TO 289	1.096	1.107
$ 290 TO 339	1.091	1.086
$ 340 TO 379	1.085	1.086
$ 380 TO 419	1.080	1.072
$ 420 TO 499	1.070	1.059
$ 500 TO 589	1.059	1.044
$ 590 TO 669	1.048	1.043
$ 670 PLUS	1.038	1.042

PMSA JOLIET, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 320	1.063	1.069
$ 320 TO 379	1.060	1.063
$ 380 TO 439	1.057	1.056
$ 440 TO 509	1.053	1.053
$ 510 TO 569	1.050	1.044
$ 570 TO 629	1.047	1.037
$ 630 TO 759	1.041	1.029
$ 760 TO 879	1.035	1.021
$ 880 TO 1009	1.029	1.021
$1010 PLUS	1.022	1.020

PMSA KENOSHA, WI

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 240	1.063	1.070
$ 240 TO 289	1.060	1.060
$ 290 TO 339	1.057	1.057
$ 340 TO 389	1.053	1.052
$ 390 TO 439	1.050	1.046
$ 440 TO 489	1.047	1.037
$ 490 TO 579	1.041	1.030
$ 580 TO 679	1.035	1.021
$ 680 TO 779	1.029	1.021
$ 780 PLUS	1.022	1.021

PMSA LAWRENCE-HAVERHILL, MA-NH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 350	1.016	1.010
$ 350 TO 419	1.015	1.008
$ 420 TO 489	1.014	1.007
$ 490 TO 559	1.014	1.006
$ 560 TO 629	1.013	1.002
$ 630 TO 709	1.012	1.001
$ 710 TO 849	1.010	1.000
$ 850 TO 989	1.009	1.000
$ 990 TO 1129	1.007	1.000
$1130 PLUS	1.006	1.000

PMSA JERSEY CITY, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 290	1.050	1.054
$ 290 TO 349	1.047	1.050
$ 350 TO 409	1.045	1.045
$ 410 TO 469	1.042	1.041
$ 470 TO 529	1.040	1.032
$ 530 TO 579	1.037	1.032
$ 580 TO 699	1.032	1.028
$ 700 TO 819	1.027	1.016
$ 820 TO 929	1.023	1.015
$ 930 PLUS	1.018	1.015

MSA KANSAS CITY, MO-KS

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.051	1.058
$ 210 TO 249	1.049	1.048
$ 250 TO 289	1.046	1.048
$ 290 TO 329	1.044	1.042
$ 330 TO 369	1.041	1.031
$ 370 TO 419	1.038	1.025
$ 420 TO 499	1.033	1.017
$ 500 TO 579	1.028	1.017
$ 580 TO 669	1.023	1.017
$ 670 PLUS	1.018	1.017

PMSA LAKE COUNTY, IL

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 320	1.063	1.069
$ 320 TO 379	1.060	1.063
$ 380 TO 449	1.057	1.055
$ 450 TO 509	1.053	1.054
$ 510 TO 579	1.050	1.044
$ 580 TO 639	1.047	1.038
$ 640 TO 769	1.041	1.028
$ 770 TO 899	1.035	1.020
$ 900 TO 1029	1.029	1.020
$1030 PLUS	1.022	1.020

PMSA LORAIN-ELYRIA, OH

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.076	1.089
$ 210 TO 249	1.072	1 083
$ 250 TO 289	1.068	1 074
$ 290 TO 329	1.065	1 065
$ 330 TO 369	1.061	1 054
$ 370 TO 409	1.057	1.054
$ 410 TO 499	1.050	1 042
$ 500 TO 579	1.042	1 030
$ 580 TO 659	1.034	1 030
$ 660 PLUS	1.027	1.030

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
PREPARED ON 120292

PMSA LOS ANGELES-LONG BEACH, CA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 370	1.045	1.042
$ 370 TO 449	1.043	1.041
$ 450 TO 519	1.041	1.039
$ 520 TO 589	1.039	1.034
$ 590 TO 669	1.036	1.032
$ 670 TO 739	1.034	1.027
$ 740 TO 889	1.030	1.027
$ 890 TO 1039	1.025	1.022
$1040 TO 1189	1.021	1.018
$1190 PLUS	1.016	1.013

PMSA MIAMI-HIALEAH, FL

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 280	1.047	1.047
$ 280 TO 329	1.044	1.046
$ 330 TO 389	1.042	1.042
$ 390 TO 439	1.040	1.039
$ 440 TO 499	1.037	1.032
$ 500 TO 549	1.035	1.032
$ 550 TO 659	1.030	1.028
$ 660 TO 769	1.026	1.021
$ 770 TO 879	1.021	1.016
$ 880 PLUS	1.017	1.015

PMSA MILWAUKEE, WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 230	1.057	1.057
$ 230 TO 269	1.054	1.052
$ 270 TO 319	1.051	1.047
$ 320 TO 359	1.049	1.044
$ 360 TO 409	1.046	1.036
$ 410 TO 459	1.043	1.030
$ 460 TO 549	1.037	1.022
$ 550 TO 639	1.032	1.015
$ 640 TO 729	1.026	1.015
$ 730 PLUS	1.020	1.015

PMSA MONMOUTH-OCEAN, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 340	1.050	1.052
$ 340 TO 409	1.047	1.048
$ 410 TO 479	1.045	1.047
$ 480 TO 549	1.042	1.039
$ 550 TO 619	1.040	1.034
$ 620 TO 679	1.037	1.032
$ 680 TO 819	1.032	1.028
$ 820 TO 959	1.027	1.021
$ 960 TO 1099	1.023	1.016
$1100 PLUS	1.018	1.015

PMSA LOWELL, MA-NH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 320	1.016	1.007
$ 320 TO 379	1.015	1.007
$ 380 TO 449	1.014	1.005
$ 450 TO 509	1.014	1.004
$ 510 TO 569	1.013	1.004
$ 570 TO 639	1.012	1.000
$ 640 TO 759	1.010	1.000
$ 760 TO 889	1.009	1.000
$ 890 TO 1019	1.007	1.000
$1020 PLUS	1.006	1.000

PMSA MIDDLESEX-SOMERSET-HUNTERDON, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 380	1.050	1.050
$ 380 TO 459	1.047	1.050
$ 460 TO 529	1.045	1.044
$ 530 TO 609	1.042	1.040
$ 610 TO 689	1.040	1.032
$ 690 TO 759	1.037	1.032
$ 760 TO 909	1.032	1.028
$ 910 TO 1069	1.027	1.021
$1070 TO 1219	1.023	1.015
$1220 PLUS	1.018	1.015

MSA MINNEAPOLIS-ST. PAUL, MN-WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 290	1.026	1.026
$ 290 TO 339	1.025	1.025
$ 340 TO 399	1.024	1.024
$ 400 TO 459	1.022	1.023
$ 460 TO 509	1.021	1.021
$ 510 TO 569	1.020	1.019
$ 570 TO 689	1.017	1.016
$ 690 TO 799	1.015	1.013
$ 800 TO 909	1.012	1.008
$ 910 PLUS	1.009	1.008

PMSA NASHUA, NH

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 350	1.016	1.010
$ 350 TO 419	1.015	1.005
$ 420 TO 489	1.014	1.004
$ 490 TO 559	1.014	1.004
$ 560 TO 629	1.013	1.002
$ 630 TO 699	1.012	1.000
$ 700 TO 839	1.010	1.000
$ 840 TO 969	1.009	1.000
$ 970 TO 1109	1.007	1.000
$1110 PLUS	1.006	1.000

SCHEDULE C CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE

PREPARED ON 120292

PMSA NASSAU-SUFFOLK, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 410	1.050	1.051
$ 410 TO 489	1.047	1.049
$ 490 TO 569	1.045	1.045
$ 570 TO 649	1.042	1.039
$ 650 TO 729	1.040	1.035
$ 730 TO 809	1.037	1.034
$ 810 TO 969	1.032	1.027
$ 970 TO 1129	1.027	1.022
$1130 TO 1299	1.023	1.016
$1300 PLUS	1.018	1.016

PMSA NEWARK, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 340	1.050	1.052
$ 340 TO 409	1.047	1.048
$ 410 TO 479	1.045	1.047
$ 480 TO 549	1.042	1.039
$ 550 TO 609	1.040	1.034
$ 610 TO 679	1.037	1.033
$ 680 TO 819	1.032	1.028
$ 820 TO 959	1.027	1.016
$ 960 TO 1089	1.023	1.016
$1090 PLUS	1.018	1.016

PMSA NORWALK, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 380	1.050	1.052
$ 380 TO 449	1.047	1.046
$ 450 TO 529	1.045	1.045
$ 530 TO 599	1.042	1.041
$ 600 TO 679	1.040	1.034
$ 680 TO 749	1.037	1.028
$ 750 TO 899	1.032	1.021
$ 900 TO 1049	1.027	1.015
$1050 TO 1199	1.023	1.015
$1200 PLUS	1.018	1.015

PMSA ORANGE COUNTY, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 310	1.050	1.054
$ 310 TO 369	1.047	1.050
$ 370 TO 439	1.045	1.044
$ 440 TO 499	1.042	1.040
$ 500 TO 559	1.040	1.032
$ 560 TO 619	1.037	1.032
$ 620 TO 749	1.032	1.028
$ 750 TO 869	1.027	1.022
$ 870 TO 999	1.023	1.015
$1000 PLUS	1.018	1.015

PMSA NEW YORK, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 300	1.050	1.052
$ 300 TO 359	1.047	1.048
$ 360 TO 429	1.045	1.046
$ 430 TO 489	1.042	1.039
$ 490 TO 549	1.040	1.035
$ 550 TO 609	1.037	1.033
$ 610 TO 729	1.032	1.028
$ 730 TO 849	1.027	1.022
$ 850 TO 969	1.023	1.015
$ 970 PLUS	1.018	1.015

PMSA NIAGARA FALLS, NY

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 210	1.056	1.053
$ 210 TO 249	1.053	1.052
$ 250 TO 299	1.050	1.044
$ 300 TO 339	1.047	1.044
$ 340 TO 379	1.044	1.033
$ 380 TO 419	1.042	1.027
$ 420 TO 509	1.036	1.019
$ 510 TO 589	1.031	1.013
$ 590 TO 679	1.025	1.013
$ 680 PLUS	1.020	1.013

PMSA OAKLAND, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 370	1.061	1.057
$ 370 TO 439	1.058	1.052
$ 440 TO 519	1.055	1.048
$ 520 TO 589	1.052	1.043
$ 590 TO 659	1.049	1.032
$ 660 TO 739	1.046	1.032
$ 740 TO 879	1.040	1.026
$ 880 TO 1029	1.034	1.019
$1030 TO 1179	1.028	1.011
$1180 PLUS	1.022	1.011

PMSA OXNARD-VENTURA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 350	1.045	1.042
$ 350 TO 429	1.043	1.041
$ 430 TO 499	1.041	1.039
$ 500 TO 569	1.039	1.036
$ 570 TO 639	1.036	1.031
$ 640 TO 709	1.034	1.028
$ 710 TO 849	1.030	1.027
$ 850 TO 989	1.025	1.022
$ 990 TO 1139	1.021	1.018
$1140 PLUS	1.016	1.012

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
PREPARED ON 120292

PMSA PHILADELPHIA, PA-NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 280	1.057	1.060
$ 280 TO 339	1.054	1.055
$ 340 TO 389	1.051	1.049
$ 390 TO 449	1.049	1.036
$ 450 TO 509	1.046	1.036
$ 510 TO 559	1.043	1.030
$ 560 TO 679	1.037	1.023
$ 680 TO 789	1.032	1.015
$ 790 TO 899	1.026	1.014
$ 900 PLUS	1.020	1.014

PMSA PORTLAND, OR

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 240	1.091	1.098
$ 240 TO 289	1.086	1.087
$ 290 TO 329	1.082	1.084
$ 330 TO 379	1.077	1.079
$ 380 TO 429	1.073	1.062
$ 430 TO 479	1.068	1.062
$ 480 TO 569	1.059	1.053
$ 570 TO 669	1.050	1.042
$ 670 TO 759	1.041	1.031
$ 760 PLUS	1.032	1.031

PMSA RIVERSIDE-SAN BERNARDINO, CA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 290	1.045	1.042
$ 290 TO 349	1.043	1.041
$ 350 TO 409	1.041	1.039
$ 410 TO 459	1.039	1.034
$ 460 TO 519	1.036	1.031
$ 520 TO 579	1.034	1.027
$ 580 TO 699	1.030	1.027
$ 700 TO 809	1.025	1.023
$ 810 TO 929	1.021	1.018
$ 930 PLUS	1.016	1.012

PMSA SALEM-GLOUCESTER, MA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 370	1.016	1.009
$ 370 TO 439	1.015	1.007
$ 440 TO 509	1.014	1.004
$ 510 TO 589	1.014	1.004
$ 590 TO 659	1.013	1.003
$ 660 TO 729	1.012	1.000
$ 730 TO 879	1.010	1.000
$ 880 TO 1029	1.009	1.000
$1030 TO 1169	1.007	1.000
$1170 PLUS	1.006	1.000

PMSA PITTSBURGH, PA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 200	1.054	1.039
$ 200 TO 239	1.051	1.036
$ 240 TO 279	1.049	1.031
$ 280 TO 319	1.046	1.023
$ 320 TO 359	1.043	1.015
$ 360 TO 399	1.041	1.015
$ 400 TO 489	1.035	1.000
$ 490 TO 569	1.030	1.000
$ 570 TO 649	1.025	1.000
$ 650 PLUS	1.019	1.000

PMSA RACINE, WI

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 220	1.057	1.055
$ 220 TO 259	1.054	1.054
$ 260 TO 299	1.051	1.046
$ 300 TO 339	1.049	1.044
$ 340 TO 389	1.046	1.038
$ 390 TO 429	1.043	1.029
$ 430 TO 519	1.037	1.021
$ 520 TO 599	1.032	1.014
$ 600 TO 689	1.026	1.014
$ 690 PLUS	1.020	1.014

PMSA ST. LOUIS, MO-IL

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 230	1.015	1.015
$ 230 TO 279	1.014	1.012
$ 280 TO 319	1.013	1.010
$ 320 TO 369	1.012	1.009
$ 370 TO 409	1.012	1.009
$ 410 TO 459	1.011	1.007
$ 460 TO 549	1.010	1.004
$ 550 TO 639	1.008	1.003
$ 640 TO 739	1.007	1.001
$ 740 PLUS	1.005	1.001

MSA SAN DIEGO, CA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 330	1.028	1.027
$ 330 TO 389	1.026	1.025
$ 390 TO 459	1.025	1.024
$ 460 TO 529	1.024	1.020
$ 530 TO 589	1.022	1.020
$ 590 TO 659	1.021	1.018
$ 660 TO 789	1.018	1.012
$ 790 TO 919	1.015	1.011
$ 920 TO 1049	1.013	1.007
$1050 PLUS	1.010	1.007

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS - BY RENT RANGE
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PMSA SAN FRANCISCO, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 440	1.061	1.056
$ 440 TO 529	1.058	1.049
$ 530 TO 619	1.055	1.047
$ 620 TO 709	1.052	1.044
$ 710 TO 799	1.049	1.033
$ 800 TO 889	1.046	1.033
$ 890 TO 1069	1.040	1.026
$1070 TO 1239	1.034	1.019
$1240 TO 1419	1.028	1.011
$1420 PLUS	1.022	1.011

PMSA SANTA CRUZ, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 400	1.061	1.055
$ 400 TO 469	1.058	1.051
$ 470 TO 549	1.055	1.047
$ 550 TO 629	1.052	1.044
$ 630 TO 709	1.049	1.033
$ 710 TO 789	1.046	1.033
$ 790 TO 949	1.040	1.026
$ 950 TO 1109	1.034	1.019
$1110 TO 1269	1.028	1.011
$1270 PLUS	1.022	1.011

PMSA SEATTLE, WA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 290	1.086	1.096
$ 290 TO 349	1.082	1.087
$ 350 TO 409	1.078	1.084
$ 410 TO 469	1.073	1.080
$ 470 TO 529	1.069	1.064
$ 530 TO 579	1.065	1.064
$ 580 TO 699	1.056	1.053
$ 700 TO 819	1.048	1.043
$ 820 TO 929	1.039	1.033
$ 930 PLUS	1.031	1.033

PMSA TACOMA, WA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 230	1.086	1.093
$ 230 TO 279	1.082	1.090
$ 280 TO 329	1.078	1.085
$ 330 TO 369	1.073	1.077
$ 370 TO 419	1.069	1.063
$ 420 TO 469	1.065	1.063
$ 470 TO 559	1.056	1.054
$ 560 TO 649	1.048	1.045
$ 650 TO 749	1.039	1.033
$ 750 PLUS	1.031	1.033

PMSA SAN JOSE, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 410	1.061	1.054
$ 410 TO 489	1.058	1.051
$ 490 TO 569	1.055	1.047
$ 570 TO 649	1.052	1.044
$ 650 TO 729	1.049	1.032
$ 730 TO 819	1.046	1.032
$ 820 TO 979	1.040	1.026
$ 980 TO 1139	1.034	1.019
$1140 TO 1299	1.028	1.011
$1300 PLUS	1.022	1.011

PMSA SANTA ROSA-PETALUMA, CA

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 350	1.061	1.054
$ 350 TO 419	1.058	1.052
$ 420 TO 489	1.055	1.048
$ 490 TO 559	1.052	1.044
$ 560 TO 629	1.049	1.034
$ 630 TO 699	1.046	1.033
$ 700 TO 829	1.040	1.025
$ 830 TO 969	1.034	1.018
$ 970 TO 1109	1.028	1.011
$1110 PLUS	1.022	1.011

PMSA STAMFORD, CT

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 450	1.050	1.052
$ 450 TO 539	1.047	1.046
$ 540 TO 629	1.045	1.043
$ 630 TO 729	1.042	1.040
$ 730 TO 819	1.040	1.034
$ 820 TO 909	1.037	1.028
$ 910 TO 1089	1 032	1.022
$1090 TO 1269	1.027	1.014
$1270 TO 1449	1.023	1.014
$1450 PLUS	1.018	1.014

PMSA TRENTON, NJ

	HIGHEST COST UTILITY INCLUDED	HIGHEST COST UTILITY EXCLUDED
UNDER $ 350	1.057	1.056
$ 350 TO 409	1.054	1.053
$ 410 TO 479	1.051	1.049
$ 480 TO 549	1.049	1.045
$ 550 TO 619	1.046	1.038
$ 620 TO 689	1.043	1.031
$ 690 TO 829	1.037	1.024
$ 830 TO 969	1.032	1.016
$ 970 TO 1109	1.026	1.016
$1110 PLUS	1.020	1.015

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS, SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS BY RENT RANGE
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PMSA VALLEJO-FAIRFIELD-NAPA, CA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 300	1.061	1.056
$ 300 TO 359	1.058	1.052
$ 360 TO 419	1.055	1.049
$ 420 TO 489	1.052	1.044
$ 490 TO 549	1.049	1.033
$ 550 TO 609	1.046	1.033
$ 610 TO 729	1.040	1.027
$ 730 TO 849	1.034	1.019
$ 850 TO 969	1.028	1.011
$ 970 PLUS	1.022	1.011

PMSA VINELAND-MILLVILLE-BRIDGETON, NJ

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 280	1.057	1.055
$ 280 TO 329	1.054	1.052
$ 330 TO 389	1.051	1.050
$ 390 TO 439	1.049	1.046
$ 440 TO 499	1.046	1.038
$ 500 TO 549	1.043	1.030
$ 550 TO 659	1.037	1.023
$ 660 TO 769	1.032	1.015
$ 770 TO 879	1.026	1.015
$ 880 PLUS	1.020	1.015

COUNTY WESTCHESTER, NY

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 360	1.050	1.053
$ 360 TO 439	1.047	1.047
$ 440 TO 509	1.045	1.046
$ 510 TO 579	1.042	1.039
$ 580 TO 649	1.040	1.034
$ 650 TO 729	1.037	1.034
$ 730 TO 869	1.032	1.027
$ 870 TO 1019	1.027	1.021
$1020 TO 1159	1.023	1.016
$1160 PLUS	1.018	1.015

PMSA VANCOUVER, WA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 220	1.092	1.095
$ 220 TO 259	1.088	1.092
$ 260 TO 309	1.083	1.084
$ 310 TO 349	1.078	1.076
$ 350 TO 389	1.074	1.065
$ 390 TO 439	1.069	1.063
$ 440 TO 519	1.060	1.054
$ 520 TO 609	1.051	1.042
$ 610 TO 699	1.042	1.032
$ 700 PLUS	1.033	1.031

MSA WASHINGTON, DC-MD-VA

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 380	1.042	1.044
$ 380 TO 459	1.040	1.043
$ 460 TO 539	1.038	1.038
$ 540 TO 609	1.036	1.037
$ 610 TO 689	1.034	1.034
$ 690 TO 769	1.032	1.029
$ 770 TO 919	1.028	1.025
$ 920 TO 1069	1.023	1.019
$1070 TO 1229	1.019	1.015
$1230 PLUS	1.015	1.015

PMSA WILMINGTON, DE-NJ-MD

	HIGHEST COST UTILITY INCLUDED	EXCLUDED
UNDER $ 290	1.057	1.057
$ 290 TO 339	1.054	1.054
$ 340 TO 399	1.051	1.046
$ 400 TO 459	1.049	1.037
$ 460 TO 519	1.046	1.031
$ 520 TO 569	1.043	1.029
$ 570 TO 689	1.037	1.022
$ 690 TO 799	1.032	1.013
$ 800 TO 919	1.026	1.013
$ 920 PLUS	1.020	1.013

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS -- Manufactured Home Spaces

HUD Regions	Metropolitan Area AAF	Nonmetropolitan Area AAF
Region I	1.019	1.011
Region II	1.026	1.038
Region III	1.038	1.035
Region IV	1.027	1.021
Region V	1.027	1.017
Region VI	1.029	1.012
Region VII	1.037	1.015
Region VIII	1.033	1.034
Region IX	1.025	1.027
Region X	1.048	1.045

State	AAF
Hawaii	1.087

MSA/PMSA	AAF
Akron, OH PMSA	1.068
Anaheim-Santa Ana, CA PMSA	1.028
Anchorage, AK MSA	1.091
Ann Arbor, MI PMSA	1.019
Atlanta, GA MSA	1.010
Aurora-Elgin, IL PMSA	1.049
Baltimore, MD MSA	1.036
Beaver County, PA PMSA	1.026
Bergen-Passaic, NJ PMSA	1.035
Boston, MA PMSA	1.003
Boulder-Longmont, CO PMSA	1.027
Brazoria, TX PMSA	1.092
Bridgeport-Milford, CT PMSA	1.036
Brockton, MA PMSA	1.003
Buffalo, NY PMSA	1.037
Chicago, IL PMSA	1.048
Cincinnati, OH-KY-IN PMSA	1.039
Cleveland, OH PMSA	1.068
Dallas, TX PMSA	1.042
Danbury, CT PMSA	1.036
Denver, CO PMSA	1.027
Detroit, MI PMSA	1.019
Ft Lauderdale-Hollywd-Pompano Bch, FL PMSA	1.035
Fort Worth-Arlington, TX PMSA	1.043
Galveston-Texas City, TX PMSA	1.092
Gary-Hammond, IN PMSA	1.049
Hamilton-Middletown, OH PMSA	1.039
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Kansas City, MO-KS MSA	1.042
Kenosha, WI PMSA	1.048
Lake County, IL PMSA	1.048
Lawrence-Haverhill, MA-NH	1.003
Lorain-Elyria, OH PMSA	1.068
Los Angeles-Long Beach, CA PMSA	1.028
Lowell, MA-NH PMSA	1.003
Miami-Hialeah, FL PMSA	1.035
Middlesex-Somerset-Hunterdon, NJ PMSA	1.036
Milwaukee, WI PMSA	1.040

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - Manufactured Home Spaces

MSA/PMSA	AAF
Minneapolis-St. Paul, MN-WI MSA	1.019
Monmouth-Ocean, NJ PMSA	1.036
Nashua, NH PMSA	1.003
Nassau-Suffolk, NY PMSA	1.035
New York, NY PMSA	1.035
Newark, NJ PMSA	1.036
Niagara Falls, NY PMSA	1.037
Norwalk, CT PMSA	1.036
Oakland, CA PMSA	1.035
Orange County, NY PMSA	1.035
Oxnard-Ventura, CA PMSA	1.028
Philadelphia, PA-NJ PMSA	1.040
Pittsburgh, PA PMSA	1.026
Portland, OR PMSA	1.067
Racine, WI PMSA	1.040
Riverside-San Bernardino, CA PMSA	1.028
St. Louis, MO-IL PMSA	1.009
Salem-Gloucester, MA	1.003
San Diego, CA MSA	1.018
San Francisco, CA PMSA	1.035
San Jose, CA PMSA	1.035
Santa Cruz, CA PMSA	1.035
Santa Rosa-Petaluma, CA PMSA	1.035
Seattle, WA. PMSA	1.067
Stamford, CT PMSA	1.036
Tacoma, WA PMSA	1.067
Trenton, NJ PMSA	1.040
Vallejo-Fairfield-Napa, CA PMSA	1.035
Vancouver, WA PMSA	1.067
Vineland-Millville-Bridgeton, NJ PMSA	1.040
Washington, DC-MD-VA MSA	1.030
Westchester, County, NY	1.036
Wilmington, DE-NJ-MD	1.040

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS - - AREA DEFINITIONS

STATES IN HUD REGIONS

Region I	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont
Region II	New Jersey and New York
Region III	Delaware, Maryland, Pennsylvania, Virginia and West Virginia (Washington, D.C. has a separate factor)
Region IV	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico and the Virgin Islands
Region V	Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin
Region VI	Arkansas, Louisiana, Oklahoma, New Mexico and Texas
Region VII	Iowa, Kansas, Missouri and Nebraska
Region VIII	Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming
Region IX	Arizona, California, Nevada and the Pacific Islands (Hawaii has a separate factor)
Region X	Alaska, Idaho, Oregon and Washington

MSA/PMSA	COUNTIES IN METROPOLITAN AREAS
Akron, OH PMSA	Portage and Summit
Anaheim-Santa Ana, CA PMSA	Orange
Anchorage, AK MSA	Anchorage
Ann Arbor, MI PMSA	Washtenaw
Atlanta, GA MSA	Barrow, Butts, Cherokee, Clayton, Cobb, Coweta, De Kalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Rockdale, Spalding and Walton
Aurora-Elgin, IL PMSA	Kane and Kendall
Baltimore, MD MSA	Anne Arundel, Baltimore, Carroll, Harford, Howard, Queen Annes and Baltimore City
Beaver County, PA PMSA	Beaver
Bergen-Passaic, NJ PMSA	Bergen and Passaic
Boston, MA PMSA	Bristol County (PART): Towns of Mansfield, Norton, and Raynham Essex County (PART): Towns of Lynn, Lynnfield, Nahant and Saugus Middlesex County (PART): Towns of Acton, Arlington, Ashland, Ayer, Bedford, Belmont, Boxborough, Burlington, Cambridge, Carlisle, Concord, Everett, Framingham, Groton, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Littleton, Malden, Marlborough, Maynard, Medford, Melrose, Natick, Newton, North Readin, Reading, Sherborn, Shirley, Somerville, Stoneham, Stow, Sudbury, Townsend, Wakefield, Waltham, Watertown, Wayland, Weston, Wilmington, Winchester and Woburn Norfolk County (PART): Towns of Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxborough, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Quincy, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, Weymouth and Wrentham Plymouth County (PART): Towns of Carver, Duxbury, Hanover, Hanson, Hingham, Hull, Kingston, Lakeville, Marshfield, Middleboroug, Norwell, Pembroke, Plymouth, Plympton, Rockland and Scituate Suffolk County (PART): Towns of Boston, Chelsea, Revere and Winthrop Worcester County (PART): Towns of Berlin, Bolton, Harvard, Hopedale, Lancaster, Mendon, Milford, Southborough and Upton
Boulder-Longmont, CO PMSA	Boulder
Brazoria, TX PMSA	Brazoria
Bridgeport-Milford, CT PMSA	Fairfield County (PART): Towns of Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford and Trumbull New Haven County (PART): Towns of Ansonia, Beacon Falls, Derby, Milford, Oxford and Seymour
Brockton, MA PMSA	Bristol County (PART): Town of Easton Norfolk County (PART): Town of Avon Plymouth County (PART): Towns of Abington, Bridgewater, Brockton, East Bridgew, Halifax, West Bridgewater and Whitman
Buffalo, NY PMSA	Erie
Chicago, IL PMSA	Cook, Du Page and McHenry
Cincinnati, OH-KY-IN PMSA	Dearborn, IN; Boone, Campbell and Kenton, KY; Clermont, Hamilton and Warren, OH
Cleveland, OH PMSA	Cuyahoga, Geauga, Lake and Medina
Dallas, TX PMSA	Collin, Dallas, Denton, Ellis, Kaufman, and Rockwall
Danbury, CT PMSA	Fairfield County (PART): Towns of Bethel, Brookfield, Danbury, New Fairfield, Newtown, Redding, Ridgefield and Sherman Litchfield County (PART): Towns of Bridgewater, and New Milford
Denver, CO PMSA	Adams, Arapahoe, Denver, Douglas and Jefferson
Detroit, MI PMSA	Lapeer, Livingston, Macomb, Monroe, Oakland, St. Clair and Wayne
Ft Lauderdale-Hollywd-Pompano Bch, FL PMSA	Broward

SCHEDULE C - CONTRACT RENT ANNUAL ADJUSTMENT FACTORS

MSA/PMSA	COUNTIES IN METROPOLITAN AREAS
Fort Worth-Arlington, TX PMSA	Johnson, Parker and Tarrant
Galveston-Texas City, TX PMSA	Galveston
Gary-Hammond, IN PMSA	Lake and Porter
Hamilton-Middletown, OH PMSA	Butler
Houston, TX PMSA	Fort Bend, Harris, Liberty, Montgomery and Waller
Jersey City, NJ PMSA	Hudson
Joliet, IL PMSA	Grundy and Will
Kansas City, MO-KS MSA	Johnson, Leavenworth, Miami and Wyandotte, KS; Cass, Clay, Jackson, Lafayette, Platte and Ray, MO
Kenosha, WI PMSA	Kenosha
Lake County, IL PMSA	Lake
Lawrence-Haverhill, MA-NH	Essex County, MA (PART): Towns of Amesbury, Andover, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andove, Salisbury and West Newbury Rockingham County, NH (PART): Towns of Atkinson, Brentwood, Danville, Derry, East Kingston, Hampstead, Kingston, Newton, Plaistow, Salem, Sandown, Seabrook and Windham
Lorain-Elyria, OH PMSA	Lorain
Los Angeles-Long Beach, CA PMSA	Los Angeles
Lowell, MA-NH PMSA	Middlesex County, MA (PART): Towns of Billerica, Chelmsford, Dracut, Dunstable, Lowell, Pepperell, Tewksbury, Tyngsborough and Westford Hillsborough County, NH (PART): Town of Pelham
Miami-Hialeah, FL PMSA	Dade
Middlesex-Somerset-Hunterdon, NJ PMSA	Hunterdon, Middlesex and Somerset
Milwaukee, WI PMSA	Milwaukee, Ozaukee, Washington and Waukesha
Minneapolis-St. Paul, MN-WI MSA	Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington and Wright, MN; St. Croix, WI
Monmouth-Ocean, NJ PMSA	Monmouth and Ocean
Nashua, NH PMSA	Hillsborough County (PART): Towns of Amherst, Brookline, Hollis, Hudson, Litchfield, Merrimack, Milford, Mont Vernon, Nashua and Wilton Rockingham County (PART): Town of Londonderry
Nassau-Suffolk, NY PMSA	Nassau and Suffolk
New York, NY PMSA	Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland
Newark, NJ PMSA	Essex, Morris, Sussex and Union
Niagara Falls, NY PMSA	Niagara
Norwalk, CT PMSA	Fairfield County (PART): Towns of Norwalk, Weston, Westport and Wilton
Oakland, CA PMSA	Alameda and Contra Costa
Orange County, NY PMSA	Orange
Oxnard-Ventura, CA PMSA	Ventura
Philadelphia, PA-NJ PMSA	Burlington, Camden and Gloucester, NJ; Bucks, Chester, Delaware, Montgomery and Philadelphia, PA
Pittsburgh, PA PMSA	Alleghany, Fayette, Washington and Westmoreland
Portland, OR PMSA	Clackamas, Multnomah, Washington and Yamhill
Racine, WI PMSA	Racine
Riverside-San Bernardino, CA PMSA	Riverside and San Bernadino
St. Louis, MO-IL PMSA	Clinton, Jersey, Madison, Monroe and St. Clair, IL; Franklin, Jefferson, St. Charles, St. Louis and St. Louis City, MO
Salem-Gloucester, MA	Essex County (PART): Towns of Beverly, Danvers, Essex, Gloucester, Hamilton, Ipswich, Manchester, Marblehead, Middleton, Peabody, Rockport, Rowley, Salem, Swampscott, Topsfield and Wenham
San Diego, CA MSA	San Diego
San Francisco, CA PMSA	Marin, San Francisco and San Mateo
San Jose, CA PMSA	Santa Clara
Santa Cruz, CA PMSA	Santa Cruz
Santa Rosa-Petaluma, CA PMSA	Sonoma
Seattle, WA. PMSA	King and Snohomish
Stamford, CT PMSA	Fairfield County (PART): Towns of Darien, Greenwich, New Canaan and Stamford
Tacoma, WA PMSA	Pierce
Trenton, NJ PMSA	Mercer
Vallejo-Fairfield-Napa, CA PMSA	Napa and Solano
Vancouver, WA PMSA	Clark
Vineland-Millville-Bridgeton, NJ PMSA	Cumberland
Washington, DC-MD-VA MSA	Washington, DC; Calvert, Charles, Frederick, Montgomery and Prince Georges, MD; Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria, Fairfax City, Falls Church, Manassas and Manassas Park, Va
Wilmington, DE-NJ-MD	New Castle, DE; Cecil, MD; and Salem, NJ

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federal register

Wednesday
January 13, 1993

Part V

The President

Proclamation 6524—Martin Luther King, Jr., Federal Holiday, 1993

Federal Register
Vol. 58, No. 8
Wednesday, January 13, 1993

Presidential Documents

Title 3—

The President

Proclamation 6524 of January 11, 1993

Martin Luther King, Jr., Federal Holiday, 1993

By the President of the United States of America

A Proclamation

By setting aside a day in honor of the late Reverend Dr. Martin Luther King, Jr., our Nation reaffirms its commitment to the noble goals for which he labored and eventually gave his life: equal opportunity and justice for all.

Throughout his quest to end racial segregation in the United States and to promote understanding and respect among all people, Martin Luther King urged America to fulfill its promise—and its potential—as a Nation dedicated to the belief "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

Always mindful of those words from our Declaration of Independence, Dr. King viewed his work as a must-win struggle for the soul and future of the Nation. He knew that efforts to promote far-reaching social change, in a peaceful, nonviolent manner, would require patience, determination, and sacrifice. Yet, despite experiencing stubborn opposition, imprisonment, and even threats to his life, he also believed that the civil rights movement would prevail. "We will reach the goal of freedom in Birmingham and all over the Nation," he wrote to his followers from jail, "because the goal of America is freedom. . . . our destiny is tied up with America's destiny."

With his inspired leadership and eloquent appeals to all who would listen, Martin Luther King set in motion a ground swell of change in the United States. The Civil Rights Act of 1957, the Civil Rights Act of 1964, and the Voting Rights Act of 1965 were critical milestones in the fight for equality under the law. Although Dr. King's assassination in 1968 at the age of 39 prevented his living to see the fulfillment of his dreams for America, his legacy has continued to challenge and inspire us. Over the years the United States has continued to eliminate legal and attitudinal barriers that have, in the past, limited opportunities on the basis of race. We must go on striving to realize Dr. King's vision of an America where individuals are "not judged by the color of their skin but by the content of their character."

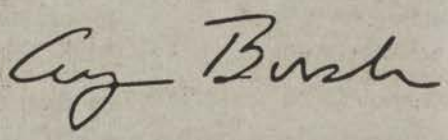
While government plays a critical role in the fight against discrimination through the enforcement of civil rights laws and its own hiring practices, our efforts to promote racial harmony and justice in the United States must begin at home. Martin Luther King described the family as the "main educational agency of mankind," and it is within the family that we must first teach lessons about love and fairness, decency and kindness, and the difference between right and wrong. We honor the legacy of Martin Luther King when we show our children, by word and example, what it means to lead "a committed life"—a life dedicated to excellence and to the service of one's fellowman. We equip our children for such a life when we encourage them to recognize their own self-worth, as well as the inherent rights and worth of others. "Every man is somebody," declared Dr. King, "because he is a child of God."

A minister by vocation, Martin Luther King sought righteous hearts as well as just laws. He warned that humankind suffered from "a poverty of the spirit which stands in stark contrast to our scientific and technological abundance." In this last decade of the 20th century, as we marvel at the historic achievements of the past 100 years and anticipate the many to come, let us enrich our children with a wealth of encouragement, hope, and moral guidance—and with living examples of racial comity and friendship.

By Public Law 98–144, the third Monday in January of each year has been designated as a legal public holiday.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Monday, January 18, 1993, as the Martin Luther King, Jr., Federal Holiday.

IN WITNESS WHEREOF, I have hereunto set my hand this eleventh day of January, in the year of our Lord nineteen hundred and ninety-three, and of the Independence of the United States of America the two hundred and seventeenth.



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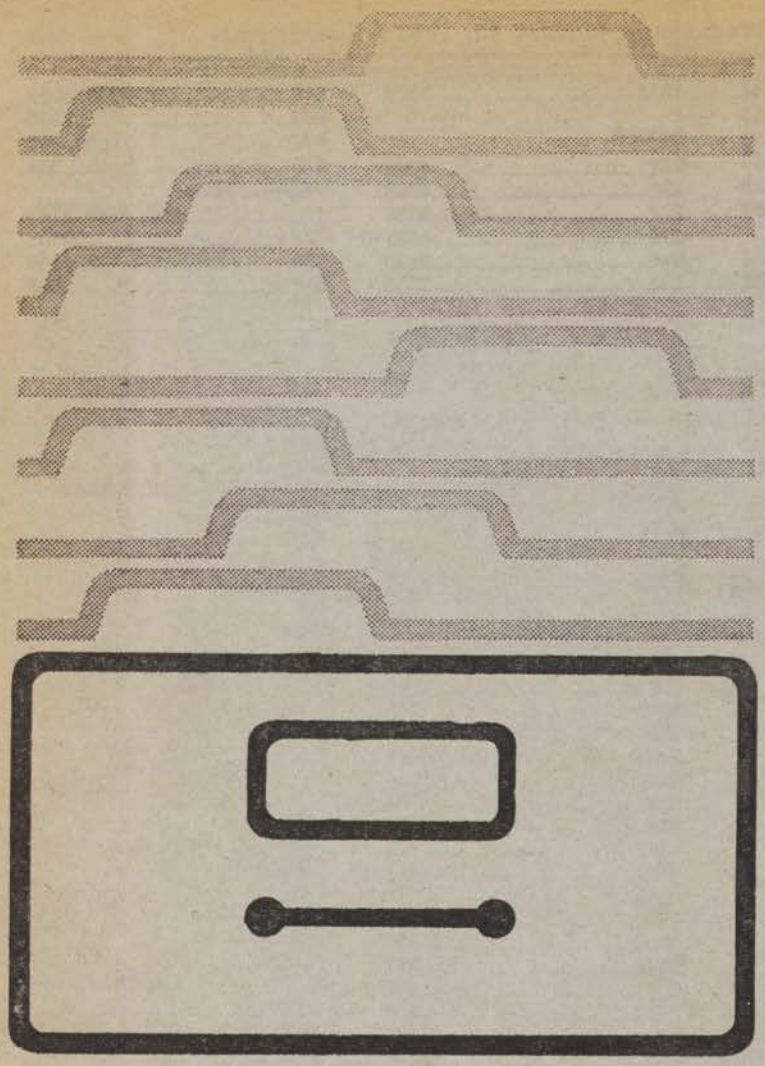

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

The GUIDE to record retention is a useful reference tool, compiled from agency regulations, designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

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