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WHEN: April 8 and May 12 at 9:00 am
WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)
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Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of Clinton Administration officials is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1943, 1951 and 1980

RIN 0575–AB39

Revisions to the Insured and Guaranteed Soil and Water Loan Instructions, and Related Instructions, To Implement the Requirements of Section 1802 of the Food, Agriculture, Conservation, and Trade Act of 1990

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends the insured and guaranteed soil and water regulations to Sections 304 and 310D of the Consolidated Farm and Rural Development Act (CONACT), as amended by section 1802 of the Food, Agriculture, Conservation, and Trade (FACT) Act of 1990 and section 501(a)(1) and (2) of the Fact Act Amendments of 1991. This action amends FmHA regulations to limit loan purposes to soil and water conservation and protection purposes, permits the use of limited resource interest rates (insured loans), gives priority to specific loan purposes, and restricts the dollar amount of individual loans.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: David R. Smith, Senior Loan Officer, Farmer Programs Loan Making Division, Farmers Home Administration, USDA, South Agriculture Building, room 5430, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 720–1645.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12991, and has been determined to be nonmajor because it will not result in an annual effect on the economy of $100 million or more.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Farm Ownership Loans are excluded with the exception of nonfarm enterprise activity from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA program as listed in the Catalog of Federal Domestic Assistance:

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 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, Public Law 91–190, an Environmental Impact Statement is not required.

Discussion

Farm loans made to FmHA applicants are governed mainly by the CONACT (7 U.S.C. 1921 et. seq.). Present Soil and Water (SW) loan regulations do not permit the use of limited resource interest rates, give priority to specific loan purposes, or restrict the dollar amount of individual loans to less than the individual loan entitlement of $200,000 total insured principal indebtedness or $300,000 for a combination of insured and guaranteed principal loan indebtedness.

As explained in the proposed rule at 56 FR 30347–30350 (July 2, 1991), statutory changes made by section 1802 of the FACT Act to sections 304 and 310D of the CONACT (7 U.S.C. 1924 and 1934) necessitate amendment of these SW regulations. The proposed rule added a new subsection under loan purposes to denote soil and water conservation and protection purposes, gave priority to applicants requesting assistance for soil and water conservation and protection purposes who use loan funds to build conservation structures or establish conservation practices on highly erodible land, limited an individual SW loan to the lesser of the value of the farm or other security for the loan or $50,000, authorized the use of limited resource interest rates when loan funds are used for soil and water conservation and protection purposes, and removed the $650,000 cap in total outstanding principal indebtedness when the borrower was indebted for an economic emergency loan.

The final rule revises subpart B of parts 1943 and 1980 of title 7 of the CFR to incorporate provisions of section 1802 of the FACT Act as amended by the Fact Act Amendments of 1991 (Pub. L. 102–237). The following is a discussion of the major changes in the final rule from the proposed rule. Soil and water conservation and protection loan purposes replace rather than supplement the existing loan purposes. The reference to land clearing, drainage, refinancing debts, and alcohol/methane facilities has been removed from the list of loan purposes as they are not considered soil and water conservation and protection purposes. Under CONACT section 302 (a)(3) and (a)(2), SW loans made for soil and water conservation and protection purposes now are restricted to owners or operators of not larger than family farms who meet the training or experience requirement for real estate loans. The family farmer and training or experience requirements do not apply to SW loans made for waste pollution and control facilities purposes according to CONACT section 304(c) as discussed below.

The agency revises subpart A of part 1951 of title 7 of the CFR to include SW loans under the limited resource review. Limited resource loans are reviewed each year at the time of the annual analysis and any time a servicing action, such as reamortization or deferral is taken.

The agency proposed to revise subpart B of parts 1943 and 1980 of title 7 of the CFR in light of section 1851 of the FACT Act. This statutory provision repealed the Emergency Agriculture Credit Adjustment Act of 1987 (7 U.S.C. prec. 1961 note) which prohibited the making of an insured or guaranteed economic emergency or farm loan to an existing farm borrower if such loan would exceed the cap of $650,000 in total outstanding principal indebtedness for all insured and/or guaranteed economic emergency (EE), farm ownership (FO), recreation loan (RL), operating (OL), and soil and water (SW) loans. An administrative decision was made to leave the $650,000 cap in place to limit the total potential exposure for EE borrowers. Without such a cap an existing borrower with a $400,000 EE loan has the potential for a 1.1 million total FmHA indebtedness considering the $400,000 guaranteed OL and $300,000 guaranteed FO individual loan entitlement. This potential of loss is unacceptable to the Agency. Other clarifying changes unrelated to the recently enacted statutory provisions are also included in this proposed rule.

Discussion of Comments

The proposed rule was published in the **Federal Register** (56 FR 30347–30350) on July 2, 1991, providing for a 30 day comment period ending August 1, 1991. Two comments, from the "Substainable Agriculture Coalition," were received on the proposed rule.

First the respondent expressed concern about the loan limitation, indicating that Congress acted to make conservation the sole focus of the program, to direct assistance to conservation compliance efforts, to ensure that borrowers be fully FmHA-eligible (operate not larger than a family size farm), and to limit the size of loans in order to distribute funds as widely as possible. The Agency agrees that corrections made to CONACT section 304 by the FACT Act Amendments of 1991 restrict SW loans, for soil and water conservation and protection purposes, to operators of not larger than a family farm who meet the training or experience requirement. The FACT ACT and the FACT ACT Amendments of 1991 did not place such restrictions on waste pollution and control facilities purposes. In fact, section 304(c) of the CONACT provides that SW loans can be made without regard to these requirements and the U.S. citizenship requirement, for purposes of meeting Federal, State, or local requirements for certain waste pollution abatement and control facilities.

Second, the respondent stated that the proposed rule did not provide a for a cap on SW loans of $50,000 per borrower. The agency concurs. The overall loan entitlement of $200,000 insured, $300,000 guaranteed per borrower is statutory (section 305 of the CONACT), and any reduction in the maximum loan entitlement would have to be by legislative change. The respondent stated that the FACT ACT Amendments of 1991 corrected the CONACT reference from section 304(d)(1) to section 304(a), resulting in a replacement rather than an addition to existing loan purposes. The Agency concurs with this statement and has revised the subject instruction to reflect the change.

List of Subjects

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1951

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

7 CFR Part 1980

Agriculture, Loan programs—Agriculture.

Therefore, Chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

1. The authority citation for part 1943 continues to read as follows:

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

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

2. Section 1943.54 is amended by adding, in alphabetical order, the definition of "Limited resource applicant" to read as follows:

§ 1943.54 Definitions.

* * * * *

Limited resource applicant. An applicant who is a farmer or rancher and is an owner or operator of a farm, including a new owner or operator, with a low income who demonstrates a need to maximize farm or ranch income. A limited resource applicant must meet the eligibility requirements for a soil and water loan, but due to low income, cannot pay the regular interest rate on such loans. Due to the complex nature of the problems facing this applicant, special help will be needed and more supervisory assistance will be required to assure reasonable prospects for success. The applicant may face such problems as underdeveloped managerial ability, limited education, low-producing farm due to lack of development or improved production practices and other related factors. The applicant cannot develop a feasible plan at regular interest rates and at the maximum loan terms. The use of limited resource interest rates is restricted to those loan purposes denoted in § 1943.66 (a)(1) through (a)(5) of this subpart.

* * * * *

3. Section 1943.57 is added to read as follows:

§ 1943.57 Preference.

Priority will be given to otherwise qualified applicants requesting assistance for soil and water conservation and protection purposes denoted in § 1943.66(a) of this subpart who use loan funds to build conservation structures or establish conservation practices on highly erodible land to comply with Part 12 of this title (see attachment 1 of exhibit M of subpart G of Part 1940 of this chapter which is available in any FmHA office).

4. Section 1943.62 is amended by redesignating paragraphs (a)(3) through (a)(7) as (a)(4) through (a)(8) and (b)(4) through (b)(9) as (b)(5) through (b)(10); by removing the word "unexhausted" and inserting in its place the word "remaining" in the last sentence of newly redesignated paragraphs (a)(8) and (b)(9); by removing the forms titles ", Alien Registration Receipt Card" in the second sentence and ", Application for Verification of Information from Immigration and Naturalization Records" in the fourth sentence of paragraphs (b)(3); by adding a new sentence to the end of paragraphs (a)(1) and (b)(3); by adding new paragraphs (a)(3), (b)(4), (b)(11), and (b)(12); by revising newly redesignated paragraphs (a)(7) and (b)(8) to read as follows:

§ 1943.62 Soil and Water loan eligibility requirements.

* * * * *

(a) * * *

(1) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(3) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's

complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(7) Be the owner or operator of not larger than a family farm after the loan is closed, when loan funds are used for soil and water conservation and protection purposes as defined in § 1943.66 (a)(1) through (a)(5) of this subpart. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(b) * * *

(3) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

(4) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(8) Be the owner or operator of not larger than a family farm after the loan is closed, when loan funds are used for soil and water conservation and protection purposes as defined in § 1943.66 (a)(1) through (a)(5) of this subpart. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1943.66(b) of this subpart.

* * * * *

(11) When loan funds will be used for soil and water conservation and protection purposes (§ 1943.66 (a)(1) through (a)(5) of this subpart), and the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, the requirements of § 1943.12(b)(5), (b)(7) [if limited resource applicant], and (b)(8) of subpart A of part 1943 of this chapter will apply.

(12) When loan funds will be used for soil and water conservation and protection purposes, and the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage, the requirements of § 1943.12(b)(6) of subpart A of part 1943 of this chapter will apply.

5. Section 1943.66 is revised to read as follows:

§ 1943.66 Loan purposes.

Loans that are consistent with all Federal, State, and local environmental quality standards may be made to:

(a) Pay costs for construction, materials, supplies, equipment, and services related to, soil and water conservation and protection purposes, such as:

(1) Installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences.

(2) Establishment of forest cover for sustained yield timber management, erosion control, or shelter belt purposes.

(3) Establishment or improvement of permanent pasture.

(4) The conversion to and maintenance of sustainable agriculture production systems, as described by Department technical guides and handbooks.

(5) Payment of costs to build conservation structures or establish conservation practices on highly erodible land to comply with a conservation plan in accordance with part 12 of this title (see attachment 1 of exhibit M of subpart G of part 1940 of this chapter which is available in any FmHA office).

(6) Other purposes consistent which plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(7) The following items/purposes related to conservation and protection purposes and water quality are authorized:

(i) Sodding, subsoiling, land leveling, liming, and fencing.

(ii) Fertilizer and seed used in connection with a soil conservation practice or to establish or improve permanent vegetation.

(iii) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(iv) Reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, engineering or other technical services and first year insurance premiums which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(v) Purchase or repair of special-purpose equipment, such as terracing, land leveling, and ditching equipment, provided:

(A) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(B) The cost of the equipment plus the other costs related to improvement will not be more than if performed by a contractor or by another method.

(vi) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(A) The purchase of water stock or membership in an incorporated water users association.

(B) The acquisition of a water right through appropriation, agreement, permit, or decree.

(C) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(*1*) The value of the land without the water supply or right is only an incidental part of the title price, and

(*2*) The water supply will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(vii) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(viii) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the Agricultural Stabilization and Conservation Service (ASCS) or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the FmHA.

(ix) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(x) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(A) Such a loan may be made on land with defective title owned by the

applicant or on land in which the applicant owns an undivided interest providing:

(1) The amount of funds used on such land is limited to $25,000,

(2) There is adequate security for the loan, and

(3) The tract is not included in the appraisal report.

(B) Such a loan may be made on land leased by the applicant providing:

(1) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life,

(2) A written lease provides for payment to the tenant or assignee for any remaining value of the improvement if the lease is terminated, and

(3) There is adequate security for the loan.

(b) Pay the costs of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures, if necessary, to comply with such pollution abatement requirements.

6. Section 1943.67 is amended by redesignating paragraphs (a), (b), and (c) as paragraphs (c), (d) and (e), respectively; by revising the reference "FmHA Instruction 2000–LL of this chapter, Memorandum of Understanding Between FmHA and U.S. Fish and Wildlife Service," to read "FmHA Instruction 2000–LL (available in any FmHA Office)" in newly designated paragraph (e); and by adding new paragraphs (a) and (b) to read as follows:

§ 1943.67 Loan limitations.

* * * * *

(a) The loan being made exceeds the lesser of the value of the farm or other security for the loan, or $50,000.

(b) The total outstanding insured SW, Farm Ownership (FO) or Recreation (RL) loan principal balance including the new loan owned by the applicant will exceed the lesser of $200,000, or the market value of the farm or other security.

* * * * * * *

7. Section 1943.68 is amended by revising paragraph (c) to read as follows:

§ 1943.68 Rates and terms.

* * * * * * *

(c) *Interest rate.* Upon request of the applicant, the interest rate charged by FmFA will be the lower of the interest rates in effect at the time of loan approval or loan closing. If an applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the type of assistance involved. A lower rate may be established in this exhibit for a limited resource applicant when loan funds are being used for soil and water conservation and protection purposes denoted in § 1943.66 (a)(1) through (a)(5) of this subpart, subject to the following;

(1) The applicant meets the conditions of the definition for a limited resource applicant set forth in § 1943.54 of this subpart.

(2) The Farm and Home Plan and Business Analysis—Nonagricultural Enterprise form, when appropriate, indicates that installments at the higher rate, along with other debts, cannot be paid during the period of the plan.

8. Section 1943.73 is amended by removing the words "installing facilities for draining lands;" in paragraph (f)(1), by removing the words "or farm drainage requirements" and "and drainage" in paragraph (f)(2), by removing paragraphs (f)(2)(iii) and (f)(4), and by revising the reference "Subpart LL of Part 2000 of this chapter" to read "FmHA Instruction 2000–LL" in paragraph (d).

9. Section 1943.79 is amended by revising paragraph (c)(1) to read as follows:

§ 1943.79 Relationship with other FmHA loans, insured and guaranteed.

* * * * *

(c) * * *

(1) The total insured and guaranteed FO, SW and RL principal balance, including the new loan, owed by the loan applicant does not exceed $300,000 at either loan approval or loan closing.

* * * * *

PART 1951—SERVICING AND COLLECTIONS

10. The authority citation for part 1951 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 A—Account Servicing Policies

11. Section 1951.25 is amended by revising the section heading, paragraph (a) and the third and last sentences of paragraph (b)(3) to read as follows:

§ 1951.25 Review of limited resource FO, OL, and SW loans.

(a) *Frequency of reviews.* OL, FO, and SW loans will be reviewed each year at the time the analysis is conducted in accordance with subpart B of part 1924 of this chapter and any time a servicing action such as consolidation, rescheduling, reamortization or deferral is taken. The interest rate may not be changed more often than quarterly.

(b) * * *

(3) * * * Borrowers that fail to provide the County Supervisor with the information needed to conduct the analysis required in subpart B of part 1924 of this chapter will have their interest rate on their loan increased to the current rate for the OL, FO, or SW loan as applicable. * * * Whenever it appears that the borrower has a substantial increase in income and repayment ability or ceases farming, either the interest rate may be increased to the current rate for FO, OL or SW loans, as applicable, or the borrower will be graduated from the program as provided in subpart F of this part.

* * * * *

PART 1980—GENERAL

12. The authority citation for part 1980 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 U.S.C. 4201 note; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70

Subpart B—Farmer Programs Loans

13. Section 1980.108 is amended by removing paragraph (d)(2) introductory text; by redesignating paragraphs (d)(2)(i) and (d)(2)(ii) as (d)(2) and (d)(3) respectively; by adding a paragraph (b)(4); and by revising introductory text of paragraph (d) to read as follows:

§ 1980.108 General provisions.

* * * * *

(b) * * *

(4) Priority will be given to otherwise qualified applicants requesting assistance for soil and water conservation and protection purposes denoted in § 1980.185 (c)(1) of this subpart, who use loan funds to build conservation structures or establish conservation practices on highly erodible land to comply with part 12 of this title (see Attachment 1 of Exhibit M of subpart G of part 1940 of this chapter which is available in any FmHA office).

* * * * *

(d) *Relationship between FmHA loans, insured and guaranteed.* A guaranteed FO or OL loan may be made to an insured borrower with the same type of loan provided:

* * * * *

14. Section 1980.185 is amended by redesignating paragraphs (b)(1)(iii) through (b)(1)(vii) as (b)(1)(iv) through (b)(1)(viii), (b)(2)(iv) through (b)(2)(ix) as (b)(2)(v) through (b)(2)(x), and (d)(1)

through (d)(3) as (d)(2) through (d)(4) respectively; by removing the word "unexhausted" and inserting in its place the word "remaining" in the last sentence of newly redesignated paragraphs (b)(1)(viii) and (b)(2)(ix); by removing the forms titles ", Alien Registration Receipt Card" in the second sentence and ", Application for Verification of Information from Immigration and Naturalization Records" in the fourth sentence of paragraph (b)(2)(iii); by adding a new sentence to the end of paragraphs (b)(1)(i) and (b)(2)(iii); by adding new paragraphs (b)(1)(iii), (b)(2)(iv), (b)(2)(xi), (b)(2)(xii), and (d)(1); and by revising newly designated paragraphs (b)(1)(vii) and (b)(2)(viii), and (c) to read as follows:

§ 1980.185 Soil and water loans.

* * * * *

(b) *Soil and water loan eligibility requirements.*

(1) * * *

(i) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(iii) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(vii) Be the owner or operator of not larger than a family farm after the loan is made, when loan funds are used for soil and water conservation and protection purposes as defined in paragraphs (c)(1)(i) through (c)(1)(v) of this section. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(2) * * *

* * * * *

(iii) * * * There is no U.S. citizenship restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

(iv) Have sufficient applicable educational and/or on the job training or farming experience in managing and operating a farm or ranch (1 year's complete production and marketing cycle within the last 5 years), which indicates the managerial ability necessary to assure reasonable prospects of success in the proposed plan of operation. There is no education or experience restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(viii) Be the owner or operator of not larger than a family farm after the loan is made, when loan funds are used for soil and water conservation and protection purposes as defined in paragraphs (c)(1)(i) through (c)(1)(v) of this section. There is no farm size restriction on loans made for waste pollution abatement and control facilities under § 1980.185(c)(2) of this subpart.

* * * * *

(xi) When loan funds will be used for soil and water conservation and protection purposes (paragraphs (c)(1)(i) through (c)(1)(v) of this section), and the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, the requirements of § 1980.175(b)(2) (v) and (vii) of this subpart will apply.

(xii) When loan funds will be used for soil and water conservation and protection purposes, and the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage, the requirements of § 1980.175(b)(2)(vi) of this subpart will apply.

(c) *Loan purposes.* Loan purposes must be consistent with all Federal, State, and local environmental quality standards and funds may be used to:

(1) Pay the costs for construction, materials, supplies, equipment, and services related to soil and water conservation and protection purposes, such as:

(i) Installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences.

(ii) Establishment of forest cover for sustained yield timber management, erosion control, or shelterbelt purposes.

(iii) Establishment or improvement of permanent pasture.

(iv) The conversion to and maintenance of sustainable agriculture production systems, as described by Department technical guides and handbooks.

(v) Payment of costs to build conservation structures or establish conservation practices on highly erodible land to comply with a conservation plan in accordance with part 12 of this title (see attachment 1 of exhibit M of subpart G of part 1940 of this chapter available in any FmHA office).

(vi) Other purposes consistent with plans for soil and water conservation, integrated farm management, water quality protection and enhancement, and wildlife habitat improvement.

(vii) The following items/purposes related to conservation and protection purposes and water quality are authorized:

(A) Sodding, subsoiling, land leveling, liming, and fencing.

(B) Fertilizer and seed used in connection with a solid conservation practice or to establish or improve permanent vegetation.

(C) Gasoline, oil, and equipment rental or hire connected with establishing or completing the development.

(D) Reasonable expenses incidental to obtaining, planning, closing, and making the loan, such as fees for legal, engineering or other technical services, hazard insurance premiums, and loan fees authorized in § 1980.22 of subpart A of this part, which are required to be paid by the borrower and which cannot be paid from other funds. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

(E) Purchase or repair of special-purpose equipment such as terracing, land leveling, and ditching equipment, provided:

(*1*) Such equipment is needed and will facilitate the completion or maintenance of the planned improvement, and

(*2*) The cost of the equipment plus the other costs related to the improvement will not be more than if performed by a contractor or by another method.

(F) Acquire a source of water to be used on land the applicant owns, will acquire, or operates including:

(*1*) The purchase of water stock or membership in an incorporated water user association.

(*2*) The acquisition of a water right through appropriation, agreement, permit, or decree.

(*3*) The acquisition of water supply or right, and the land on which it is presently being used, when the water supply or right cannot be purchased without the land, provided:

(*i*) The value of the land without the water supply or right is only an incidental part of the total price; and

(*ii*) The water supply and right will be transferred to, and used more effectively on, other land owned or operated by the applicant.

(G) Purchase land or an interest therein for sites or rights-of-way and easements upon which a water or drainage facility will be located.

(H) Pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs administered by agencies such as the ASCS or the Soil Conservation Service (SCS) only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to the lender.

(I) Provide water supply facilities for dwellings and farm buildings, including such facilities as wells, pumps, farmstead distribution systems, and home plumbing.

(J) Pay costs of land and water development, use, and conservation essential to the applicant's farm, subject to the following:

(*1*) Such a loan may be made on land with defective title owned by the applicant (see paragraph (f) of this section) or on land in which the applicant owns an undivided interest providing:

(*i*) The amount of funds used on such land is limited to $25,000,

(*ii*) There is adequate security for the loan, and

(*iii*) The tract is not included in the appraisal report.

(*2*) Such a loan may be made on land leased by the applicant providing:

(*i*) The terms of the lease are such that there is reasonable assurance the applicant will have use of the improvement over its useful life.

(*ii*) A written lease provides for payment to the tenant or assignee for any remaining value of the improvement if the lease is terminated.

(*iii*) There is adequate security for the loan.

(K) Purchase any stock in a cooperative lending agency that is necessary to obtain the loan.

(2) Pay the costs of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities, including construction, modification, or relocation of the farm or farm structures if necessary to comply with such pollution abatement requirements.

(d) * * *

(l) The loan being made exceeds the lesser of the value of the farm or other security for such loan or $50,000.

* * * * *

Dated: February 24, 1993.

Charles R. Resnick,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 93–6260 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R–0775]

Prohibition Against the Payment of Interest on Demand Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; delay of effective date.

SUMMARY: The Board is delaying the effective date of the final rule, published on September 21, 1992, which amended Regulation Q in conjunction with its amendments to Regulation DD, which implemented the Truth in Savings Act. Deletion of the advertising rules in Regulation Q is delayed by three months until June 21, 1993. Regulation Q retains provisions prohibiting the payment of interest on demand deposits.

EFFECTIVE DATE: Effective March 19, 1993, the effective date for the amendments to part 217 which were published at 57 FR 43336 is delayed until June 21, 1993.

FOR FURTHER INFORMATION CONTACT: Patrick J. McDivitt, Staff Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3818; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

(1) Background

The Truth in Savings Act (Act) (12 U.S.C. 4301) directs the Board to issue an implementing regulation, which shall apply six months after the final regulation is issued. At the same time the Board issued implementing regulations on September 21, 1992 (57 FR 43337), it amended Regulation Q (57 FR 43336) to provide that rules dealing with advertising of deposit accounts were eliminated, effective March 21, 1993. Regulation Q sets forth disclosure and advertising rules for interest on deposits by member banks and certain other institutions.

The Housing and Community Development Act (HCDA), enacted in October 1992 (Pub. L. 102–550, 106 Stat. 3672), amended the act by extending the mandatory compliance date by three months. In light of that delay, the Board is delaying the effective date of the advertising and other disclosure rules in Regulation Q from March 21, 1993, to June 21, 1993, the new mandatory compliance date for Regulation DD. (See Docket R–0791 elsewhere in today's **Federal Register**, which sets forth the amendments to Regulation DD.) Institutions that begin compliance with Regulation DD prior to the mandatory compliance date may comply solely with the advertising provisions of Regulation DD, and not the advertising and disclosure provisions in Regulation Q.

By order of the Board of Governors of the Federal Reserve System, March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6325 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–M

12 CFR Part 225

[Regulation Y; Docket No. 93-0798]

Real Estate Appraisals

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; technical amendment.

SUMMARY: The Board is publishing a technical amendment to its Real Estate Appraisal Regulations to reflect that the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures have been superseded by the Guidelines for Real Estate Appraisal and Evaluation Programs.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Terence F. Browne, Senior Attorney (202/452-3707), or Christopher Bellini, Attorney (202/452-3269), Legal Division, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 requires that real estate appraisals conducted in connection with federally-related transactions be performed in writing, in accordance with uniform standards, by a qualified real estate appraiser who is subject to effective

supervision.[1] Section 225.63(a) of the Board's Regulation Y, which sets out exceptions to the requirements of title XI, provides that any transaction not requiring an appraisal by a State certified or licensed appraiser does require an appropriate evaluation of real property collateral that is consistent with the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures.[2] On September 28, 1992, the Board adopted the Guidelines for Real Estate Appraisal and Evaluation Programs, which Guidelines supersede the Board's Guidelines for Real Estate Appraisal Policies and Review Procedures.[3]

The amendment adopted by the Board is technical and does not affect the substance of the Board's Real Estate Appraisal Regulations.[4] This amendment will provide an updated cross-reference to the guidelines now applicable to real estate-related financial transactions that do not require an appraisal by a State certified or licensed appraiser. Accordingly, the Board, for good cause, finds that the notice and public comment procedure normally required is not necessary and would be contrary to the public interest under 5 U.S.C. 553(b)(B). The Board further finds that, for the same reasons, there is good cause under 5 U.S.C. 553(d).

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that adoption of this final rule will not have a significant economic impact on a substantial number of small entities that are subject to the regulation. As noted above, this amendment imposes no new requirements, but merely updates the reference to the appropriate real estate appraisal guidelines.

List of Subjects in 12 CFR Part 225

Administrative practice and procedure, Banks, Banking, Holding companies, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board is amending 12 CFR part 225 as follows:

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

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

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

Subpart G—Appraisals

2. In section 225.63, the concluding text in paragraph (a) is revised to read as follows:

§ 225.63 Appraisals not required; transactions requiring a State certified or licensed appraiser.

(a) * * *

Any transaction for which a State certified or licensed appraiser is not required nevertheless must have an appropriate evaluation of real property collateral that is consistent with the Board's Guidelines for Real Estate Appraisal and Evaluation Programs.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 11, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-6085 Filed 3-18-93; 8:45 am]

BILLING CODE 6210-01-P

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12 CFR Part 230

[Regulation DD; Docket No. R-0791]

Truth in Savings; Regulatory Amendments

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule amending Regulation DD (Truth in Savings) to implement recent changes made to the Truth in Savings Act by the Housing and Community Development Act of 1992. The law extends the mandatory date for compliance with the requirements of the Truth in Savings Act by three months, so that institutions must comply by June 21, 1993, rather than March 21, 1993. The law also modifies the advertising rules relating to signs on the premises of an institution, and makes a technical change to the provision dealing with notices required to be given to existing account holders. In addition, the Board is making two minor changes to the regulation and providing guidance on several issues that have been raised by institutions since publication of the final regulation in September 1992.

DATES: This final rule is effective March 21, 1993. Compliance is optional until June 21, 1993. Compliance with the amendment to part II of appendix A of part 230 is optional until December 21, 1993.

FOR FURTHER INFORMATION CONTACT: Jane Ahrens, Kyung Cho, Kurt Schumacher, or Mary Jane Seebach, Staff Attorneys, Division of Consumer and Community Affairs, at (202) 736-5500; for the hearing impaired only contact Dorothea Thompson, Telecommunications Device for the Deaf, at (202) 452-3544

SUPPLEMENTARY INFORMATION:

(1) Background

The Truth in Savings Act ("act") (contained in the Federal Deposit Insurance Corporation Improvement Act of 1991) was enacted in December 1991. The Board published proposed rules to implement the act on April 13, 1992 (57 FR 12735), and published final regulations on September 21, 1992 (57 FR 43337) (correction notice at 57 FR 46480, October 9, 1992).

The Housing and Community Development Act (HCDA) was enacted into law in October 1992 (Pub. L. 102-550, 106 Stat. 3672). The law contains three provisions that amend the Truth in Savings Act. The provisions extend the effective date for compliance with the act by three months, reduce the requirements that apply to some advertisements on the premises of a depository institution, and modify the provision that requires a notice to be given to existing account holders alerting them to the availability of account disclosures.

On January 5, 1993, the Board published a proposal to implement these amendments (58 FR 271). In addition to proposing rules to implement the statutory changes, the Board solicited comment on whether to adopt a technical change to the regulation, and proposed to provide guidance on several issues raised by institutions since adoption of the final rules. The Board received 108 comments on the proposal. Based on a review of the comments and further analysis the Board is taking final action.

(2) Regulatory Provisions

Mandatory Compliance Date

Section 957(b) of the HCDA amended section 269(a)(2) of the Truth in Savings Act, extending the mandatory compliance date for three months. The Board proposed to change the compliance date from March 21, 1993 to June 21, 1993, and the final rule reflects that change. The definition of "account" under 230.2(a) states that existing accounts held by an unincorporated nonbusiness association of natural persons prior to March 21, 1993 are not included in the term. The final rule changes the date to June 21, 1993. The change to the regulation also supersedes all references to an effective date of March 21, 1993, appearing in the

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[1] *See* 12 U.S.C. 3310, 3331-3351.

[2] 12 CFR 225.63(a).

[3] *See* F.R.R.S. 3-1577.

[4] *See* 12 CFR 225.61-225.67.

supplementary information to the final regulation.

Elsewhere in this issue of the **Federal Register**, as proposed, the Board is delaying the effective date of the deletion of Regulation Q's advertisement and disclosure rules until June 21, 1993. Institutions may, however, comply solely with the advertising provisions in Regulation DD prior to June 21, 1993, and not the advertising and disclosure provisions in Regulation Q.

Section 230.4—Account Disclosures

(c) Notice to Existing Account Holders

(1) *Notice of availability of disclosures.* Section 957(b) of the HCDA extended the mandatory compliance date from 6 months to 9 months after the Board's issuance of a final rule. In addition, section 1604(e) amended section 266(e) of the Truth in Savings Act to require that the notice to existing account holders be sent "on or with the first regularly scheduled mailing sent after the end of the '6 month period' beginning on the date of publication" of the Board's implementing regulations.

If the revisions to sections 957(b) and 1604(e) were read literally, institutions would be required to provide the notice to existing consumer account holders on or with the first periodic statement sent after March 21, 1993, even though the effective date has been delayed. The Board believes the Congress intended to grant institutions an additional three months to comply with the disclosure duty. The Board solicited comment on amending § 230.4(c) of the regulation to require that notice be given on or with the first periodic statement sent on or after the mandatory compliance date of June 21, 1993 (or the first periodic statement for a statement cycle beginning on or after that date). Commenters urged the Board to adopt this interpretation. They stated that a notice to consumers before the June 21, 1993, mandatory compliance date would be useless (and perhaps confusing) since account disclosures might not be available at depository institutions. To facilitate compliance and avoid consumer confusion, the Board is exercising its exception authority under section 269(a)(3) of the act to extend the time to send notices to existing account holders by three months, to June 21, 1993.

Section 230.5—Subsequent Disclosures

(a) Change in Terms

(2) *No notice required.*—(ii) *Check printing fees.* The act and regulation require depository institutions to provide a 30-day advance notice to consumers of any change in a previously disclosed term that may adversely affect the consumer. In its September 1992 rulemaking, the Board used its authority to create a limited exception to the notice requirements for changes in check printing fees "assessed by third parties." In the proposal issued in January 1993, the Board solicited comment on whether the exception should be broadened to apply to any check printing fees—whether the fee is assessed by a third party or by the institution itself.

Commenters strongly supported exempting all check printing fees from the change in terms notice. Commenters noted that these fees are based on the style and quantity of checks ordered, and the consumer has primary control over such decisions. Consequently, sending a change in terms notice for such fees would provide minimal benefit to consumers while imposing a significant burden on institutions. The final rule provides that a change in terms notice is not required for any increase in fees for printing checks. The rule allows an institution to take advantage of the exception even if it adds a "mark-up" to the price charged by the vendor before passing the fee on to the consumer.

The Board also proposed that check printing fees are not maintenance or activity fees for purposes of the advertising rules in § 230.8(a), whether the institution or a third party imposes the fee. Section 230.8(a) prohibits institutions from advertising an account as "free" or "no cost" if any "maintenance or activity" fee might be imposed. The Board believes that check printing fees are not maintenance or activity fees even if imposed in whole or in part by the institution.

Section 230.8—Advertising

(e) Exemption for Certain Advertisements

Section 263 of the act was amended by the HDCA to provide that if a rate is displayed on a sign designed to be viewed only from the interior of an institution, the sign need only include the annual percentage yield and a statement advising consumers to ask employees about fees and terms applicable to the advertised account. Such signs need not provide other information required under section 263(a) of the act, such as the statement that fees could reduce earnings on the account.

The proposal provided for abbreviated disclosure requirements for "lobby signs facing inside" a depository institution (or facing inside the premises of a deposit broker). The Board proposed to use a "facing inside" standard rather than the "intent" standard of the amendment. Many commenters were concerned about the certainty of compliance with either standard. Commenters noted that many branches and main offices are often enclosed by glass or are located in grocery stores or shopping malls where signs visible to customers are also visible to passersby. The Board believes that the Congress intended to permit abbreviated disclosures for signs inside an institution's premises, unless the sign faces outside and can reasonably be viewed by a consumer only from outside the premises.

The final rule provides a clearer standard for determining what signs are eligible for the exception. The final rule exempts any sign inside the premises of a depository institution (or the premises of a deposit broker), unless the sign faces outside and can reasonably be viewed by a consumer only from outside the premises. The Board believes that the standard captures the Congress' goal to require full disclosures for advertisements that are clearly designed to be viewed by persons not inside a depository institution. The rule also avoids the uncertainty of compliance when, for example, a sign behind a teller and facing customers at a small, glass-enclosed branch can also be seen by passersby. Such a sign would be an exempt indoor sign.

The final regulation does not define "lobby sign." Most commenters stated that a definition was unnecessary. Commenters stated that depository institutions increasingly conduct business in retail malls or grocery stores where there is little or no "lobby" area; therefore, references to "lobby" in the final regulation have been deleted.

The regulation exempts indoor advertisements however they are displayed, such as banners, preprinted posters, and chalk or peg boards—whether affixed to a wall or displayed on one or both sides of an easel. Indoor advertisements on computer screens and electronic media are also exempt. Of course, an advertisement affixed to a window and facing outside remains subject to the general advertising rules, since it can reasonably be viewed only from outside the institution. Any sign or notice inside the premises that can be retained by a consumer (such as a brochure or a print-out from a computer) also is subject to the general advertising rules, as are signs on the exterior of a depository institution.

The final rule retains for indoor signs the prohibition against misleading or inaccurate advertisements, and thus

against the description of accounts as "free" if a maintenance or activity fee is imposed.

The HDCA amendment to section 263(c) of the act states that the display of any rate on an indoor sign triggers the disclosure of the annual percentage yield. The statute does not require that the figure be described as "annual percentage yield." The regulation currently requires that in all cases, if a rate of return is advertised, it must be stated as the annual percentage yield, using that term. The Board solicited comment on whether rates on a lobby sign should be identified as the annual percentage yield or by the abbreviation "APY." The vast majority of commenters supported the proposal, primarily to promote uniformity and consistency in disclosures used by consumers in comparison shopping. The final rule provides that if a rate is displayed on an indoor sign, only the annual percentage yield, using that term or the abbreviation "APY," need be stated along with a statement that consumers should ask employees about fees and terms for the account.

Finally, the proposal exempted lobby signs from the disclosure requirements under paragraphs (b), (c) and (d) of section 230.8, whether or not a rate is stated. Commenters supported the proposal. The final rule adopts the proposal, with the addition of paragraph (e)(1). Thus, any bonus displayed on an indoor sign that meets the test in section 230.8(e)(2)(i) would not trigger additional disclosures.

Appendix A to Part 230—Annual Percentage Yield Calculation

Additional Formula for Certain Accounts

The Board solicited comment on whether an additional formula should be added to Appendix A, Part II, to calculate the annual percentage yield earned on the periodic statement for accounts in certain cases. The Board had received inquiries about the applicability of the current formula in certain situations. Institutions that use the daily balance method to accrue interest noted that if a periodic statement is sent more frequently than the period for which interest is compounded, the annual percentage yield earned could be higher than the annual percentage yield provided in advertisements and opening account disclosures. This would be the case, for example, when an institution uses the daily balance method of accruing interest and compounds interest annually, but provides monthly periodic statements. If an institution pays a 5% interest rate and compounds annually, it would disclose an annual percentage yield of 5.00% in its advertisements and initial account disclosures. However, under the general annual percentage yield earned formula, the institution would show $4.11 of interest accrued on $1,000 of principal on a monthly periodic statement reflecting 30 days, and an annual percentage yield earned of 5.12% on that statement.

Most commenters asked the Board to adopt the proposed alternative annual percentage yield earned formula for use in such cases. They expressed concern that consumers would be confused or misled by the use of an annual percentage yield earned figure that is higher than the initially disclosed annual percentage yield. In response to comments received and upon further analysis, the Board is adopting the proposed formula. The formula must be used when an institution uses the daily balance method to accrue interest and when a periodic statement is sent more often than the period for which interest is compounded.

The Board also solicited comment on whether the use of this new formula should be optional or required. While the majority of commenters believed that the formula should be adopted, they were divided on whether its use should be required. Some commenters stated that it should be made optional, given the brief time remaining before the mandatory compliance date. These commenters said that requiring institutions and vendors to develop and have in place a new formula by June 21, 1993, would be a significant burden, and that institutions might not be able to achieve full compliance by that date.

The Board believes it is essential for institutions to calculate the annual percentage yield earned in a way that ensures information provided to consumers is accurate and not misleading. The Board agrees, however, that mandating the use of this formula as of June 21, 1993, could impose a substantial burden on institutions. Therefore, the Board is using its exception authority in section 269(a)(3) of the act to provide a delay in the mandatory compliance date. As applicable, institutions will be required to use this special formula beginning with the first periodic statement sent on or after December 21, 1993 (or with the first periodic statement for a statement cycle beginning on or after that date). For periodic statements sent prior to that date institutions may utilize the general formula provided in Appendix A for computing the annual percentage yield earned. The Board believes that an extension of six months from June 21, 1993, is appropriate to allow institutions about nine months to implement the necessary changes in their operating systems.

While the definitions that apply to the general formula in Appendix A, Part II apply to the new formula as well, the Board has added a definition of "compounding" to the final rule. This definition differs from the proposed definition (where compounding was defined as the "frequency with which interest is compounded, expressed as a number of days"). Several commenters mistakenly believed the proposed definition referred to the frequency of compounding periods in a year. The final rule clarifies that "compounding" is the number of days in each compounding period. For example, quarterly compounding is to be expressed as 91.25 days in the compounding period; semi-annual compounding is to be expressed as 182.5; and annual compounding is to be expressed as 365.

The Board has added an example of the computation of an annual percentage yield earned that utilizes the special formula. Finally, the Board has rearranged the format of this section in the appendix to reflect the adoption of the special formula.

(3) Additional Guidance

Section 230.2(q)—Periodic Statement

The regulation defines a periodic statement as one sent to a consumer "on a regular basis four or more times a year." The supplementary information accompanying the final rule stated that if an institution provides a statement to meet other legal requirements (for example, to comply with Regulation E), such a statement is a periodic statement for purposes of Regulation DD.

The Board solicited comment on whether certain Regulation E statements should be considered periodic statements for purposes of Regulation DD. (Regulation E requires a statement to be sent for each monthly or shorter cycle in which an electronic fund transfer has occurred, but at least quarterly if no transfer has occurred (12 CFR 205.9(b)).) The Board proposed that if an institution provides regular quarterly statements, and in addition provides a monthly statement when a transfer has occurred (to comply with Regulation E), the monthly statement is not a periodic statement for Regulation DD purposes.

Most commenters supported the Board's proposal. These commenters agreed that monthly statements are not sent on a "regular basis" if they are sent only when an electronic transfer occurs

during the month. Many commenters believed, however, that institutions should not be precluded from treating these Regulation E statements as periodic statements for purposes of Regulation DD. A number of institutions are already prepared to include the Regulation DD disclosures on the "interim" Regulation E statements that they generate.

The Board believes that a flexible approach is desirable. Whether the interim statement is deemed a Regulation DD statement or not, consumers will receive full disclosures for all activity in the quarter. If the institution opts to make Regulation DD disclosures on the interim statement, consumers benefit from receiving account information sooner rather than later. A flexible rule also minimizes the burden of compliance on institutions that already have their programs in place and would otherwise be required to make significant revisions to their systems.

Therefore, consistent with the proposal, institutions that regularly provide quarterly statements need not, but may, treat any monthly Regulation E statements as periodic statements for Regulation DD purposes. For institutions that choose not to do so, the quarterly statement must reflect the annual percentage yield earned and interest earned for the full quarter. (Institutions that use the average daily balance method and calculate interest for a period other than the statement period must use the special rule in § 230.6(b).) If an institution chooses to provide interest or rate information on these interim statements, however, the statement would be deemed a Regulation DD statement, and be subject to the periodic statement disclosure rules.

Institutions that treat Regulation E statements as Regulation DD periodic statements must provide information for the period since the last statement was issued. For example, an institution may issue quarterly periodic statements in March, June, September, and December. If the consumer initiates an electronic fund transfer in February, an interim statement would be provided. An institution treating that February statement as a Regulation DD statement must reflect all interest earned and an annual percentage yield earned for the period since the previous DD statement was issued in December. Disclosures of the interest earned and the annual percentage yield earned on the next statement (March) would not repeat interest information disclosed on the February statement. Thus, the March statement would only reflect interest earned and an annual percentage yield earned for the month of March and would not repeat or aggregate such interest information for the entire quarter. As the periodic statement disclosures are intended to provide the consumer with a "snapshot" of how much interest was earned during a specific period, the Board believes subsequent statements must not repeat or incorporate interest earned or the annual percentage yield earned for previous periods that have already been disclosed.

The Board also solicited comment on whether institutions should have to redisclose fees on a quarterly statement if the fees were reflected in a prior monthly statement to comply with Regulation E. Many commenters believed that fees disclosed in the monthly Regulation E statement should not be repeated in the quarterly periodic statement. These commenters were concerned that consumers might be confused if the same fees were disclosed twice—once in the month the fee was incurred and again on a quarterly statement.

For institutions that issue a statement to comply with the requirements of Regulation E only, the Board believes disclosing fees on the monthly statement is sufficient and that the same fees need not be redisclosed on the quarterly statement. Institutions asked how they should treat fees that are not required to be disclosed on the interim Regulation E statements (for example, fees unrelated to electronic fund transfers) but that the institution provides on that statement. Fees (for example, per check fees or stop payment fees) disclosed on a monthly statement need not be redisclosed on the quarterly statement. On the other hand, if an institution imposes such fees during the period and does not disclose them on the monthly statement, such fees must be reflected on the quarterly statement to meet the requirements of § 230.6.

Account Balance Information

Several commenters raised another issue related to the definition of a periodic statement. Currently, many institutions include on the periodic statement for one account "status information" for other accounts held at the same institution. For example, a monthly statement for a consumer's checking account may also provide the account number and balance of the consumer's savings account. In addition, a full periodic statement for the savings account is sent on a quarterly basis. Commenters stated that providing balance information on the periodic statement for another account serves several purposes. For example, if a minimum balance fee on a checking account depends on the combined balance in a consumer's savings and checking accounts, balance information on the savings account helps the consumer understand that the fee was properly assessed. Balance information also enables consumers to monitor total deposits maintained at an institution. For example, an institution may include balance information for a money market deposit account (MMDA) on the monthly statement for a NOW account, even though the MMDA account also receives a monthly statement, but on a different cycle.

Commenters requested that institutions be allowed to provide the account number, type of account and balance information for one account (for example, a MMDA) on the periodic statement for another account without having to provide complete disclosures required by § 230.6 for the MMDA. Institutions have stated that without such a rule they may stop providing balance information about other deposit accounts on periodic statements, due to the difficulty and costs associated with calculating an annual percentage yield earned for odd short periods, and the limited space available on periodic statements to provide such information.

In the final regulation issued in September 1992, the Board recognized this problem, as well as the benefits of receiving secondary account information. The definition of periodic statement excludes information about time accounts and passbook savings accounts, so that institutions may give information about such accounts without triggering the periodic statement disclosure rules. Commenters believe, however, that the exemption from the definition of periodic statement should be broadened to allow balance information for an account that appears on the periodic statement of another account.

The Board agrees there are significant reasons to allow institutions to provide account balance information for one or more accounts on the periodic statement for another account, without triggering the duty to provide complete periodic statement disclosures. Thus, an institution may provide the account number, the type of account, and balance information for an account on a periodic statement given for another account. This rule may be used only to provide balance information for accounts that receive periodic statements. Under this interpretation, the consumer will always receive a regular statement with full Regulation DD disclosures in addition to the

balance information. For example, if an institution issues quarterly periodic statements for savings accounts, and monthly statements for MMDAs, disclosing balance information for the savings account and the MMDA on monthly checking account statements will not trigger full periodic statement disclosures for the savings account or the MMDA on the monthly checking account statements. However, providing information other than the balance in an account on the checking account statement (for example, the current interest rate being paid on the MMDA) would require the institution to give full disclosures for the MMDA on the checking account statement. (The existing exemption for time accounts and passbook savings accounts is unaffected by this rule).

Appendix A to Part 230—Annual Percentage Yield Calculation

Use of "Ledger" and "Collected" Balance To Calculate the Annual Percentage Yield Earned

The Board proposed to address a second issue in Part II of Appendix A. The annual percentage yield earned reflects the relation between the amount of interest earned and the account balance for the period reflected on the statement. The Board was previously asked how the balance figure should be determined when an institution uses a "collected" balance method of accruing interest.

The final rule issued in September 1992 allows institutions to *accrue interest* using either the collected or ledger balance method. In its January proposal, the Board stated that whichever method was used to accrue interest, institutions should use the *ledger*—and not the collected—balance in the account for calculating the annual percentage yield earned. The Board noted its belief that using the ledger balance for the periodic statement cycle provides a more accurate yield figure since it demonstrates the difference between institutions that accrue interest using a collected balance compared to those that use a ledger balance.

Many commenters expressed great concern over the Board's proposed position. They stated institutions that accrue interest using the collected balance method do not have the computer capability to use a ledger balance for calculating the annual percentage yield earned. They further stated that developing such a capability would be expensive and could not be done prior to the mandatory compliance date without substantial difficulty, if at all. Some commenters noted that because the Board's final rule was silent about which balance should be used, they had proceeded with implementing the rule based on the assumption that the collected balance could be used in determining the annual percentage yield earned. Commenters suggested that using the ledger balance would not result in a significantly different annual percentage yield earned figure, since the difference between the date a deposit is entered on a ledger balance and on a collected balance is often only one day.

In response to the comments and upon further analysis, the final regulation permits institutions that accrue interest using the collected balance method to use either the ledger balance or the collected balance in determining the annual percentage yield earned. (Of course, if an institution accrues interest using a ledger balance method, it would use the ledger balance to determine the annual percentage yield earned.) Either method will produce very similar results in most cases, given the typically short interval between the deposit of an item and its collection. Moreover, since institutions must describe whether they accrue interest by using a ledger or a collected balance, consumers will have this information to compare institutions' interest accrual policies. (See section 230.4(b)(3)(iii).) In addition, the interest figure disclosed on the periodic statement will reflect whichever method an institution uses to accrue interest. Finally, the Board believes permitting the use of either a ledger or a collected balance to calculate the annual percentage yield earned will minimize compliance costs and burdens on institutions, since many institutions proceeded with implementing the rule based on the assumption that the collected balance could be used in computing the annual percentage yield earned.

(4) Regulatory Flexibility Analysis and Paperwork Reduction Act

The change to the regulation is likely to have an insignificant impact on institutions' costs, including those of small institutions.

(5) List of Subjects in 12 CFR Part 230

Advertising, Banks, Banking, Consumer protection, Deposit accounts, Interest, Interest rates, Federal Reserve System, Truth in savings.

For the reasons set forth in the preamble, 12 CFR part 230 is amended as follows:

PART 230—TRUTH IN SAVINGS

1. The authority citation for part 230 continues to read as follows:

Authority: 12 U.S.C. 4301 et. seq.

2. Section 230.2 is amended by revising the last sentence in paragraph (a) to read as follows:

§ 230.2 Definitions.

* * * * *

(a) * * * The term does not include an existing account held by an unincorporated nonbusiness association of natural persons prior to June 21, 1993, unless the association notifies the institution that it meets the definition of "consumer."

* * * * *

3. Section 230.4 is amended by revising the first and second sentences in paragraph (c)(1) to read as follows:

§ 230.4 Account disclosures.

* * * * *

(c) * * * (1) * * * Depository institutions shall provide a notice to consumers who receive periodic statements and who hold existing accounts of the type offered by the institution on June 21, 1993. The notice shall be included on or with the first periodic statement sent on or after June 21, 1993 (or on or with the first periodic statement for a statement cycle beginning on or after that date). * * *

* * * * *

4. Section 230.5 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 230.5 Subsequent disclosures.

(a) * * *

(2) * * *

(ii) *Check printing fees.* Changes in fees assessed for check printing.

* * * * *

5. Section 230.8 is amended by revising paragraph (e) to read as follows:

§ 230.8 Advertising.

* * * * *

(e) *Exemption for certain advertisements.*—(1) *Certain media.* If an advertisement is made through one of the following media, it need not contain the information in paragraphs (c)(1), (c)(2), (c)(4), (c)(5), (c)(6)(ii), (d)(4), and (d)(5) of this section:

(i) Broadcast or electronic media, such as television or radio;

(ii) Outdoor media, such as billboards; or

(iii) Telephone response machines.

(2) Indoor signs. (i) Signs inside the premises of a depository institution (or the premises of a deposit broker) are not subject to paragraphs (b), (c), (d), or

(e)(1) of this section unless they face outside the premises and can reasonably be viewed by a consumer only from outside the premises.

(ii) If a sign exempt by paragraph (e)(2) of this section states a rate of return, it shall:

(A) State the rate as an "annual percentage yield," using that term or the term "APY." The sign shall not state any other rate, except that the interest rate may be stated in conjunction with the annual percentage yield to which it relates.

(B) Contain a statement advising consumers to contact an employee for further information about applicable fees and terms.

6. In Appendix A to Part 230, Part II is amended in the first paragraph following the introductory text by revising the text preceding the formula and adding a heading for a new section A immediately preceding the formula, and by adding a new section B at the end of the appendix to read as follows:

Appendix A to Part 230—Annual Percentage Yield Calculation

* * * * *

Part II. *Annual percentage yield earned for periodic statements*

* * * * *

The annual percentage yield earned shall be calculated by using the following formulas ("APY Earned" is used for convenience in the formulas):

A. *General formula.*

* * * * *

B. *Special formula for use where periodic statement is sent more often than the period for which interest is compounded.*

Institutions that use the daily balance method to accrue interest and that issue periodic statements more often than the period for which interest is compounded shall use the following special formula:

APY Earned=

$$100\left\{\left[1+\frac{\text{(Interest earned/Balance)}}{\text{Days in period}}\ \text{(Compounding)}\right]^{(365/\text{Compounding})}-1\right\}$$

The following definition applies for use in this formula (all other terms are defined under Part II):

"Compounding" is the number of days in each compounding period.

Assume an institution calculates interest for the statement period using the daily balance method, pays a 5.00% interest rate, compounded annually, and provides periodic statements for each monthly cycle. The account has a daily balance of $1,000 for a 30-day statement period. The interest earned is $4.11 for the period, and the annual percentage yield earned (using the special formula above) is 5.00%:

$$\text{APY Earned}=100\left\{\left[1+\frac{(4.11/1{,}000)}{30}\ (365)\right]^{(365/365)}-1\right\}$$

APY Earned=5.00%

By order of the Board of Governors of the Federal Reserve System, March 12, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–6326 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563

[No. 92–534]

RIN 1550–AA51

Qualified Thrift Lender Test

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is issuing its final qualified thrift lender (QTL) regulation implementing revisions to the QTL test made by the Qualified Thrift Lender Reform Act of 1991 (QTL Reform Act) and the Housing and Community Development Act of 1992 (HCDA). Effective December 19, 1991, the QTL Reform Act amended section 10(m) of the Home Owners' Loan Act (HOLA) by lowering the required QTL percentage of housing-related investments from 70% to 65% of a thrift's portfolio assets; changing the computation period from weekly to monthly; increasing the amount of regulatory liquidity excludable from portfolio assets; authorizing certain shares of the stock of certain government sponsored enterprises to be included in the computation of qualified thrift investments; and increasing certain percentages in the computation of qualified thrift investments. Effective October 28, 1992, the HCDA clarified changes made by the QTL Reform Act by lowering the initial QTL requirement from 70% to 65% and by adjusting the requalification provision to a 9 out of 12 months computation period. In general, these changes will reduce the regulatory burden on savings associations.

EFFECTIVE DATE: January 1, 1992.

FOR FURTHER INFORMATION CONTACT: Eileen McCarthy, Policy Analyst, (202) 906–5652; Robyn Dennis, Program Manager, Policy, (202) 906–5751; Dorene Rosenthal, Senior Attorney, (202) 906–7268; Valerie Lithotomos, Counsel (Banking and Finance), (202) 906–6439; Regulations and Legislation Division, Chief Counsel's Office; Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

A. The FDICIA Revisions to the QTL Test

The OTS is today issuing a final rule amending its QTL regulations. These amendments implement statutory changes effected by subtitle G of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), also referred to as the "QTL Reform Act," Public Law No. 102–242, 105 Stat. 2236 (1991) and the HCDA, Public Law No. 102–550, 105 Stat. 3672 (1992). The QTL Reform Act modified the QTL test that was first enacted in the Competitive Equality Banking Act of 1987, Public Law No. 100–86, 101 Stat. 552 (CEBA), and was later amended in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101–73, 103 Stat. 183 (FIRREA). Savings associations that fail to satisfy the QTL test are subject to various penalties, including limitations on the types of activities they may conduct, restrictions on their Federal Home Loan Bank advances, and loss by the savings association's holding

company of the activities flexibility it enjoyed as a thrift holding company.

The QTL Reform Act amended the QTL test by lowering the actual thrift investment percentage (ATIP) of housing-related investments a thrift must hold from 70 percent to 65 percent. The QTL Reform Act also redefined the computation period over which a thrift's ATIP is measured to a monthly average in 9 out of 12 months. The ATIP is a ratio whose numerator is housing-related investments, more commonly referred to as "qualified thrift investment" or "QTI," and whose denominator is "portfolio assets." The term "portfolio assets" is statutorily defined to mean a savings association's total assets less goodwill and other intangibles, the thrift's business property, and a limited amount of liquid assets.

Shares of stock issued by any Federal Home Loan Bank (FHLB) are now includable as QTI. Shares of stock issued by the Federal Home Loan Mortgage Corporation (FHLMC) and the Federal National Mortgage Association (FNMA) also are now includable as QTI in an amount not to exceed 20 percent of the association's portfolio assets.

Finally, the QTL Reform Act modified the computation of the ATIP by: Increasing the amount of regulatory liquidity excludable from portfolio assets from 10 percent to 20 percent of the savings association's total assets; increasing the 15 percent QTI "basket" [1] to 20 percent; and increasing the 5 percent consumer loan "basket" for personal, family, household, or educational purposes to 10 percent.

The QTL Reform Act took effect upon the enactment of FDICIA on December 19, 1991. The HCDA, which took effect on October 28, 1992, corrected technical oversights in the QTL Reform Act. The HCDA clarified the QTL Reform Act in two respects. First, it corrected an oversight in the QTL Reform Act that had lowered the ATIP for the continuing qualification from 70% to 65%, but had left the initial qualifying ATIP at 70%. Second, the HCDA clarified that the requalification period would conform to the newly enacted 9 out of 12 months computation period.

As explained more fully below, the measuring period for the new QTL test commenced as of January 1, 1992, the first month following FDICIA's enactment. Thus, the first date a savings association could fail the new QTL test would have been April 30, 1992.

[1] Savings associations were permitted to include as QTI certain specified assets in an aggregate amount not to exceed 15 percent of an association's portfolio assets. This amount has commonly been referred to as the 15 percent basket.

B. Description of the Proposal and the Final Rule

On September 2, 1992, the OTS published a notice of proposed rulemaking describing amendments to the qualified thrift lender regulations. 57 FR 40140 (September 2, 1992). The public comment period on the proposal closed on October 2, 1992.

The proposed rule lowered the initial and continuing ATIP from 70 percent to 65 percent, as measured by a monthly average. In addition, the computation period was changed to require that the percentage be reached for 9 out of the previous 12 months. The requalification measurement was also changed to reflect the new measuring period of 9 out of the previous 12 months.

The proposal established this 9 out of 12 month period as a "rolling" calculation period. The "rolling" measuring period began January 1, 1992. The first time that a savings association could fail the test would be at the end of the first four months of 1992, or April 30, 1992, because on that date a savings association would know if it had failed the QTL test for 4 out of 12 months. Thus, savings associations that were not subject to QTL penalties before July 1, 1991 would continue to hold their QTL status and could not fail before April 30, 1992.

Also, in accordance with the QTL Reform Act, the proposed rule included shares of stock issued by any FHLB as QTI. Shares of stock issued by FHLMC and FNMA are also includable as QTI in an amount not to exceed 20 percent of the savings association's portfolio assets. Finally, the proposed rule increased the amount of regulatory liquidity excludable from portfolio assets from 10 percent to 20 percent of total assets; increased the 15 percent QTI basket to 20 percent; and increased the 5 percent consumer loan basket to 10 percent.

Upon review of the comments received in response to the proposal and based upon the agency's experience in administering earlier versions of the QTL statutory provisions and implementing regulations, the OTS has determined to adopt the final regulation as proposed, without amendment.

II. Summary of Comments

The OTS received a total of 8 comment letters. Commenters included 5 thrift institutions, 1 thrift trade association, 1 vendor of banking computer technology, and 1 government-related entity.

Most commenters supported the proposed rule overall, but sought changes to specific aspects of the proposal. One commenter believed that the QTL Reform Act was imprudent in easing the QTL requirements and urged the OTS to try to convince Congress to reconsider the QTL amendments. Discussion of specific areas addressed in the comments follows.

A. Calculation of the New QTL Ratio and the Measuring Period

The commenters generally supported lowering the ATIP from 70 percent to 65 percent. Several commenters favored the proposed "rolling" measuring period versus the "static" period for computation purposes. One commenter specifically stated that the following period should be adopted because it more accurately reflects on-going compliance with the test because if the static approach were adopted an institution could fail for 6 consecutive months and still maintain QTL compliance. Two commenters supported the static period, one in general, and one for the requalification period only. The latter commenter stated that a static measuring period for requalification purposes only would permit savings associations to requalify more easily. While this may be true for some savings associations, the OTS believes that the rolling measuring period best effectuates Congressional intent in determining a savings association's continuing QTL status.

B. Effective Date of the Final Rule

One commenter stated that January 1, 1992 was a reasonable effective date. Two commenters expressed concern that the proposed January 1, 1992 effective date would be a retroactive application of the QTL test. Institutions may presently be passing the FIRREA QTL test because the first possible date of failure under the FIRREA QTL test was June 27, 1993. Yet, under the proposed rule, the first possible date of failure would be April 30, 1992.

The OTS recognizes the effect of the January 1, 1992 effective date, but does not agree that the results of the effective date will be a retroactive application. The QTL Reform Act was enacted December 19, 1991, provided no delay in its effectiveness, and made the new QTL test applicable to institutions as of that date regardless of any implementing regulations. Thus, the timing of the impact of the new test on savings associations is a result of the statute, not the implementing regulations. The January 1, 1992 effective date for the statutorily mandated measuring periods contained in OTS's implementing regulations most closely conforms to the QTL Reform Act's effective date.

The OTS notes, however, that three major changes to the QTL requirements over five years as a result of CEBA, FIRREA, and FDICIA have caused frequent implementation changes and uncertainty for institutions. The OTS also realizes that savings associations are now required to comply with a new QTL test, albeit less stringent than the old QTL test, in a shorter period of time than they would have under the FIRREA test.

In this regard, the OTS notes that Section 10(m) of the HOLA, as well as OTS's QTL regulation, authorize the Director to grant waivers from the minimum ATIP requirement if "extraordinary circumstances" exist. The OTS recognizes that as a result of national, regional or market sector economic conditions, associations may not have been able to restructure the composition of their assets in a safe and sound manner quickly enough to come into compliance with the QTL test under the test's new, shorter measuring period, which was made effective, by statute, with no delayed effective date. Accordingly, the OTS will consider requests for temporary waivers of the QTL test, pursuant to the "extraordinary circumstances" exception, on a case-by-case basis, where an association makes a showing that its inability to restructure assets quickly and safely and soundly, in order to meet the new test, was due to such economic conditions. Other circumstances may also support granting a waiver and will also be considered on a case-by-case basis.

C. Inclusion of FHLMC and FNMA Stock in QTI

One commenter suggested that FHLMC and FNMA stock should be accorded special treatment and allowed to qualify as either excludable liquidity or as QTI, at the option of the savings association. The QTL Reform Act does not contain this option, therefore, it is not included in the final rule.

D. De Novo Associations

The final rule clarifies that the QTL calculation period for a *de novo* association commences at the beginning of the quarter following the date on which it opened for business instead of the date on which its charter was granted. This amendment was made to take into consideration that, on occasion, a charter may be granted subject to conditions that must be satisfied prior to a *de novo* opening for business.

E. Deletion of Appendix A

The proposed and final rules remove appendix A from the QTL regulations. One commenter suggested that the OTS should retain the appendix as part of the QTL regulations because the appendix was useful and provided helpful QTL calculation examples. The OTS agrees with the commenter about the usefulness of the information contained in the appendix, but believes that it will be more easily updated and therefore of more ongoing value if the information contained in appendix A is incorporated into the OTS Thrift Activities Handbook, which is provided to all thrifts.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

The Director of the OTS has determined that this regulation does not constitute a "major rule;" therefore, a final regulatory impact analysis is not required.

List of Subjects in 12 CFR Part 563

Accounting, Advertising, Crime, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

Accordingly, the Office of Thrift Supervision hereby amends part 563, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 563—OPERATIONS

1. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1828, 3806; 42 U.S.C. 4106; Public Law 102–242, sec. 306, 105 Stat. 2236, 2355 (1991).

Subpart B—Operation and Structure

2. Section 563.50 is amended by revising paragraphs (a), (b), (d), (e), and the text of paragraph (g)(2) preceding the table to read as follows:

§ 563.50 Qualified thrift lender status.

(a) As of January 1, 1992, a savings association that was not subject to penalties for failure to maintain qualified thrift lender (QTL) status as of June 30, 1991, as determined under regulations in this chapter in effect on that date, shall be deemed to be a qualified thrift lender. The savings association shall continue to be a qualified thrift lender so long as the association's actual thrift investment percentage (ATIP) in at least nine months out of each twelve month period after January 1, 1992 continues to equal or exceed 65 percent. For purposes of this paragraph, the savings association's compliance with the QTL test for the immediately preceding 12 month period shall be calculated at the end of each month.

(b)(1) Beginning January 1, 1992, until December 31, 1992, a savings associations shall cease to be a qualified thrift lender when its ATIP as measured by monthly averages over the period beginning January 1, 1992 falls below 65 percent for four or more of such months.

(2) Beginning January 1, 1993, a savings association shall cease to be a qualified thrift lender when its ATIP as measured by monthly averages over the immediately preceding twelve month period falls below 65 percent for four or more of such months.

(3) Upon ceasing to be a qualified thrift lender pursuant to this paragraph, a savings association shall promptly certify its QTL failure to its Regional Director.

* * * * *

(d) *De Novo savings associations.* For purposes of paragraph (a) of this section, a *de novo* association shall begin its twelve month QTL measuring cycle, maintaining monthly averages of its qualified thrift investments and portfolio assets, at the beginning of the quarter following the date on which it opened for business.

(e) *Requalification.* A savings association may requalify as a qualified thrift lender only once by meeting and maintaining an ATIP, as measured by monthly averages for nine of twelve months over a twelve month period, greater than or equal to 65 percent.

* * * * *

(g) *Special phase-in for certain Federal savings associations.* * * *

* * * * *

(2) After calculating the difference between the savings association's actual thrift investment on August 9, 1989, and 65 percent, the savings association must increase its ATIP in 25 percent increments as set forth in the following schedule until full compliance is achieved on October 1, 1995:

* * * * *

3. Section 563.51 is amended by revising paragraph (e), redesignating paragraph (f)(1)(vi) as paragraph (f)(1)(vii), adding new paragraphs (f)(1)(vi) and (f)(1)(vii)(G), removing the word "and" at the end of paragraph (f)(1)(vii)(E), and revising newly designated paragraphs (f)(1)(vii) introductory text and (f)(1)(vii)(F) to read as follows:

§ 563.51 Definitions.

* * * * *

(e) *Portfolio assets* means the total assets of the savings association minus the sum of: Goodwill and other intangible assets (as defined in 12 CFR 567.1(m)); the value of property used by the association to conduct its business; and the association's liquid assets of the type maintained pursuant to section 6 of the Home Owners' Loan Act, in an amount not exceeding 20 percent of the savings association's total assets.

(f)(1) * * *

(vi) Shares of stock issued by any Federal Home Loan Bank; and

(vii) An aggregate amount, not to exceed 20 percent of such association's portfolio assets, of the following assets:

* * * * *

(F) Loans for personal, family, household, or education purposes, provided that the dollar amount treated as QTI under this subsection may not exceed 10 percent of the savings association's portfolio assets; and

(G) Shares of stock issued by the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

* * * * *

Appendix A to §§ 563.50–563.52– [Removed]

4. Appendix A to §§ 563.50 through 563.52 is removed.

Dated: December 23, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93–6381 Filed 3–18–93; 8:45 am]

BILLING CODE 6720–01–M

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12 CFR Part 567

[No. 92–526]

RIN 1550–AA55

Capital Treatment of Equity Investments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is changing its risk-based capital treatment of certain equity investments to parallel the capital treatment of those investments under the rules applicable to national banks. Savings associations will be required to place these investments in the 100% risk-weight category.

EFFECTIVE DATE: April 19, 1993.

FOR FURTHER INFORMATION CONTACT: John Connolly, Program Manager for Capital Policy, (202) 906–6465, Policy; Deborah Dakin, Assistant Chief Counsel, (202) 906–6445, Regulations and Legislation Division, Chief Counsel's Office; Office of Thrift Supervision, 1700 G St., NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The OTS is today revising its risk-based capital regulation to modify its treatment of certain equity investments and to clarify the treatment of certain other equity investments. Equity investments that are permissible for both savings associations and national banks will no longer be deducted from savings associations' calculations of total capital over a five-year transition period. Instead, they will be placed in the 100 percent risk-weight category, mirroring the treatment prescribed for those investments when made by national banks under the regulations of the Office of the Comptroller of the Currency (OCC). Equity investments held by savings associations that are not permissible for national banks must still be deducted from assets and total capital. This final regulation also clarifies the risk-based capital treatment of equity investments that represent interests in pools of assets, such as mutual funds. These amendments are adopted without change from the proposed regulation published at 57 FR 40147 (September 2, 1992).

The OTS received four comments on the proposed regulation: One from a savings association; two from trade associations; and one from a government-sponsored enterprise. All of the commenters supported the proposal. Two commenters sought greater specificity in the regulatory text about the types of investments covered by the proposal. As discussed below, the OTS believes that any benefits that could result from adopting these suggestions are outweighed by the disadvantages of such additional detail.

Today's revisions to the risk-based capital treatment of equity investments do not affect a savings association's underlying authority to make such investments. Some equity investments permissible for national banks are not permissible for savings associations. Nothing in this rule would permit savings associations to make investments that they are not otherwise authorized to make.

Today's change will cover all equity investments that are permissible for both savings associations and national banks. The three equity investments most commonly held by thrifts and thus most affected by this change are loans with equity participations that are considered equity investments under Generally Accepted Accounting Principles, Federal National Mortgage Association (Fannie Mae) stock, and Federal Home Loan Mortgage Corporation (Freddie Mac) stock. One commenter suggested that the regulation explicitly list all Fannie Mae and Freddie Mac stock as excluded from the definition of equity investments rather than referring generically to equity investments permissible for national banks, a category that covers the stock of both entities. The OTS is not adopting this suggested change. Whether an equity investment is authorized for a national bank, as that authority may be amended from time to time, determines whether it will be placed in the 100% risk-weight category under the regulation. Listing particular investments may give rise to confusion about the status of investments not specifically listed and would result in the need for the regulation to be amended more frequently.

One commenter suggested that OTS explicitly incorporate in this regulation the OCC's body of regulations and interpretations addressing loans with equity participations. The OTS plans to look to such OCC documents for guidance in determining whether a particular loan would be permissible for a national bank and expects that thrifts will do the same. The OTS does not believe, however, that such an explicit addition to the regulation is appropriate or that it would provide savings associations with any clearer guidance in determining which loans are covered.

The OTS will continue to supervise the lending practices of savings associations and will closely scrutinize any loans with equity characteristics to ensure compliance with safe and sound lending practices. The OTS also has additional capital safeguards against excessively high ratio land and non-residential construction loans, which may have equity participation features. The capital rule treats the portion of high ratio land loans and non-residential construction loans above 80% of the value of the underlying property as subject to deduction from assets and capital when computing an institution's risk-based capital requirements. Today's amendment does not change this treatment.

Additionally, OTS reserves the right under 12 CFR 567.11 to determine that either a particular loan structure or group of loans should be treated in the same manner as an equity investment for purposes of the capital regulation if it finds such loan structures or groups of loans are more consistent with the characteristics of equity investments or were structured for the purpose of evading the equity investment rule.

Today's final rule also clarifies that investments in securities evidencing ownership interests in pools of assets, which are risk-weighted under 12 CFR 567.6(a)(vi) depending on the assets held in the portfolios, are not considered equity investments as defined in 12 CFR 567.1(i).

Executive Order 12291

The Director of the OTS has determined that this final rule does not constitute a "major rule" and, therefore, a final regulatory impact analysis is not required.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OTS certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Accordingly, the Office of Thrift Supervision hereby amends part 567, chapter V, title 12, Code of Federal Regulations as set forth below:

SUBCHAPTER D—REGULATIONS APPLICABLE TO ALL SAVINGS ASSOCIATIONS

PART 567—CAPITAL

1. The authority citation for part 567 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1467a.

2. Section 567.1 is amended by revising the concluding text of paragraph (i)(2) to read as follows:

§ 567.1 Definitions.

* * * * *

(i) *Equity investments.* * * *

(2) * * *

It does not include investments in subsidiaries as defined in paragraph (dd) of this section, equity investments that are permissible for national banks, ownership interests in pools of assets that are risk-weighted in accordance with § 567.6(a)(vi) of this part, or the stock of Federal Home Loan Banks or Federal Reserve Banks.

* * * * *

3. Section 567.6 is amended by removing the period at the end of paragraph (a)(1)(iv)(S) and adding in its place a semicolon and by adding a new paragraph (a)(1)(iv)(T) to read as follows:

§ 567.6 Risk-based capital credit risk-weight categories.

(a) *Risk-weighted Assets.* * * *

(1) *On-balance Sheet Assets.* * * *

* * * * *

(iv) *100 percent Risk Weight (Category 4).* * * *

* * * * *

(T) Equity investments permissible for a national bank.

* * * * *

Dated: December 21, 1992.

By the Office of Thrift Supervision.

Jonathan L. Fiechter,

Acting Director.

[FR Doc. 93-6380 Filed 3-18-93; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 305

RIN 3084-AA26

Rules for Using Energy Cost and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Correction Pertaining to Ranges of Comparability for Dishwashers

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission amends Appendix C of its Appliance Labeling Rule to indicate that energy usage figures for dishwashers are based on 6.2 loads of dishes per week, rather than eight loads per week, as incorrectly published earlier.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202-326-3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, pursuant to section 324 of the Energy Policy and Conservation Act of 1975 (EPCA),[1] the Commission issued a final rule[2] covering a number of appliance categories, including dishwashers. Section 305.8(b) of the rule requires manufacturers, after filing an initial report, to report energy usage information annually by specified dates for each product type.[3] This information is used by the Commission to establish and publish ranges of comparability for each product category. The Commission is empowered, under § 305.10 of the rule, to publish new ranges (but not more often than annually) if an analysis of the new data indicates that the upper or lower limits of the ranges have changed by more than 15%.

When the Commission published new ranges of comparability for dishwashers on December 14, 1992,[4] Paragraph 2 of Appendix C incorrectly showed that energy usage for dishwashers should be based on eight loads per week, instead of 6.2 loads per week. The Commission is amending Paragraph 2 of Appendix C to correct that error.

In consideration of the foregoing, the Commission amends Paragraph 2 of Appendix C of its Appliance Labeling Rule by publishing the following amended Paragraph 2 to indicate that the energy usage figures for dishwashers are based on 6.2 loads of dishes per week. This amendment, which corrects a typographical (rather than substantive) error, is effective upon publication.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Accordingly, 16 CFR Part 305 is amended as follows:

PART 305—[AMENDED]

1. The authority citation for part 305 is amended to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94-163), 89 Stat. 871 (1975), as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3258, (1978), the National Appliance Energy Conservation Act, Pub. L. 100-12, 101 Stat. 103(1987), the National Appliance Energy Conservation Amendments of 1988, Pub. L. 100-357, 102 Stat. 671 (1988), and the Energy Policy Act of 1992, Pub. L. 102-486, 106 Stat. 2776 (1992), 42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. The text preceding the table in paragraph 2 of Appendix C to Part 305 is revised to read as follows:

Appendix C to Part 305—Dishwashers

* * * * *

2. *Yearly Cost Information:* Estimates on the scales are based on a national average electric rate of 8.25¢ per kilowatt hour, a national average natural gas rate of 58¢ per therm, and 6.2 loads of dishes per week.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 93-6310 Filed 3-18-93; 8:45 am]

BILLING CODE 6750-01-M

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[1] Pub. L. 94-163, 89 Stat. 871, 42 U.S.C. 6294.

[2] 16 CFR part 305.

[3] Reports for dishwashers are due by June 1.

[4] 57 FR 58976.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM92-9-001]

Regulations Governing Blanket Marketer Sales Certificates

March 12, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; denial of rehearing.

SUMMARY: On November 30, 1992, the Federal Energy Regulatory Commission (Commission) issued a final rule in Order No. 547 governing jurisdictional sales for resale of natural gas by all persons who are not interstate pipelines. On rehearing, the Commission addressed the narrow issue of whether it misinterpreted section 201 of the Energy Policy Act of 1992. The Commission denied rehearing in finding that it had correctly interpreted section 201 of the Energy Policy Act.

FOR FURTHER INFORMATION CONTACT: Jeffrey A. Gollomp, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 208-1022.

SUPPLEMENTARY INFORMATION: In addition to this document's being published in the **Federal Register**, all interested persons may inspect or copy its contents during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200, or 2400 band, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Order Denying Rehearing and Granting Clarification

On November 30, 1992, the Federal Energy Regulatory Commission (Commission) issued a final rule governing the Commission's regulation of jurisdictional natural gas sales for resale by all persons who are not interstate pipelines (Order No. 547).[1] On December 30, 1992, El Paso Natural Gas Company (El Paso) filed a request for clarification or, in the alternative, rehearing of the final rule—specifically, of the Commission's interpretation of section 201 of the Energy Policy Act of 1992 (Energy Policy Act).[2] We will deny rehearing but grant clarification to the extent discussed below.

Background

El Paso's request pertains to one narrow aspect of Order No. 547. As such, we will not recount the background of the rule other than those facts relevant to the issue before us. In addressing a comment to the notice of proposed rulemaking (NOPR) in this docket, we cited the Energy Policy Act for the proposition that "all importation of LNG and importation of natural gas subject to a free trade agreement are beyond the Commission's jurisdiction"[3] as such sales would constitute unregulated first sales under the Natural Gas Wellhead Decontrol Act of 1989.[4] Our interpretation of the Energy Policy Act derived from section 201 of the statute which reads as follows:

> (b) [w]ith respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—
>
> (1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978.

El Paso's Request for Rehearing or Clarification

El Paso contends that clarification or rehearing is warranted because the Commission erroneously interpreted Section 201 of the Energy Policy Act and section 2(21) of the Natural Gas Policy Act of 1978 (NGPA). According to El Paso, Section 201 of the Energy Policy Act incorporates by reference the definition of first sale as provided in Section 2(21) of the NGPA. Further, El Paso cites section 2(21)(B) of the NGPA which excludes from the definition of first sale "the sale of any volume of natural gas by an interstate pipeline, intrastate pipeline, or local distribution company, or any affiliate thereof" unless such gas is produced by one of these entities. From this definition El Paso contends that inter-affiliate importations of gas not produced by the affiliate are not first sales and, therefore, the Commission has erred in stating that "all" importations of natural gas subject to a free trade agreement constitute first sales as that term is defined in the NGPA and adopted by the Energy Policy Act.

Commission Response to El Paso's Petition

The Commission agrees with El Paso that, in accordance with Section 201 of the Energy Policy Act, importations of natural gas and LNG are deemed "first sales" only to the extent that natural gas sales qualify as such under Section 2(21) of the NGPA.[5] Nevertheless, the Commission has consistently interpreted the NGPA to find that affiliates' sales of gas are "first sales" within the meaning of the NGPA as long as a pipeline or LDC is not a prior link in the chain of transactions. The Commission has codified this interpretation in section 270.203(c) of the Commission's regulations. That provision states:

> [a]ny sale by an affiliate of an interstate pipeline, intrastate pipeline, or local distribution company, that is not itself such a pipeline or local distribution company is that affiliate's first sale under the NGPA unless the Commission, on application, determines not to treat such sale as a first sale.[6]

To be sure, the Commission's interpretation of the NGPA leading to the codification of the regulation stemmed, in part, from a concern about affiliates' ability to circumvent the then existing maximum lawful prices prescribed under Title I of the NGPA. However, the Commission has continued to adhere to its interpretation of the statute even as the categories of maximum lawful prices waned pursuant to the NGPA. In Order No. 497, the Commission retained the first sale status for affiliate sales because it found that it could prevent affiliate abuses by regulating the pipelines and would not need to regulate marketing affiliates as to their first sale transactions.[7] The

[1] Regulations Governing Blanket Marketer Sales Certificates, Order No. 547, 57 FR 57952 (Dec. 8, 1992), III FERC Stats. and Regs. ¶ 30,957 (1992).

[2] Pub. L. No. 102-486, 106 Stat. 2776 (1992).

[3] III FERC Stats. and Regs. ¶ 30,957, at p. 30,728.

[4] Pub. L. No. 101-60, 103 Stat. 157 (1989).

[5] The term "first sale" is not necessarily tantamount to an initial sale, since multiple first sales can occur prior to a sale's losing this status when a pipeline or LDC enters the transaction.

[6] 18 CFR 270.203(c).

[7] Inquiry Into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines, Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,820 (1988), *order on reh'g*, Order No. 497-A, 54 FR 52781 (Dec. 22, 1989), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,868 (1989), *order extending sunset date*, Order No. 497-B, 55 FR 53291 (Dec. 28, 1990), FERC Stats. and Regs. [Regulations Preambles 1986-1990] ¶ 30,908 (1990),

Continued

Commission reiterated this position in Order No. 497–A.[8] We see no reason to diverge from this approach here for purposes of defining as first sales the importation of natural gas and LNG that is subject to a free trade agreement.

The Commission orders:

Rehearing of Order No. 547 is denied. Clarification is granted to the extent discussed herein.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6334 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Excluded Veterinary Anabolic Steroid Implant Products

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: The Drug Enforcement Administration (DEA) identifies the veterinary anabolic steroid implant product, Implus™–H, as being excluded from the Controlled Substances Act. This action is part of the ongoing implementation of the Anabolic Steroid Control Act of 1990.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., (Chief, Drug and Chemical Evaluation Section), 202–307–7183.

SUPPLEMENTARY INFORMATION: The Anabolic Steroids Control Act of 1990 (ASCA) (title XIX of Public Law 101–647) placed anabolic steroids into Schedule III of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). Section 1902(b)(41)(B)(1) of the ASCA provides for the exclusion of any anabolic steroid which the Secretary of Health and Human Services has approved for administration through implants to cattle or other nonhuman species.

A procedure for designating products as being excluded from the CSA was published (56 FR 42935, August 30, 1991) and eight products were identified (57 FR 19533, July 22, 1992 and 57 FR 36372, August 13, 1992).

Ivy Laboratories, Inc. notified the DEA in accordance with 21 CFR 1308.25 that Heifer-old, a product which they manufacture and which is identified as being an excluded veterinary anabolic steroid implant product, would be sold under an additional name. The purpose of this rule is to add that name, Implus™-H, to 21 CFR 1308.26, the list of excluded veterinary anabolic steroid implant products. This action was not preceded by a proposal because it involves only a name change.

The listing of a product in 21 CFR 1308.26 relieves persons who handle it from the registration, recordkeeping, security, and other requirements imposed by the CSA. Accordingly, the Deputy Assistant Administrator certifies that this action will not have an economic impact upon small entities whose interests must be considered under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.).

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this matter does not have sufficient federalism implications to require the preparation of a Federalism Assessment.

It has been determined that drug control matters are not subject to review by the Office of Management and Budget (OMB) pursuant to the provisions of Executive Order 12291. Accordingly, this action is not subject to those provisions of Executive Order 12778 which are contingent upon review by OMB. Nevertheless, the Deputy Assistant Administrator has determined that this is not a "major rule," as that term is used in Executive Order 12291, and that it would otherwise meet the applicable standards of sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by title XIX of Public Law 101–647, as delegated to the Administrator of the DEA pursuant to 21 U.S.C. 871(a) and 28 CFR 0.100, and redelegated to the Deputy Assistant Administrator, Office of Diversion Control in 28 CFR 0.104, appendix to subpart R, section 7(g), the Deputy Assistant Administrator of the Office of Diversion Control hereby amends 21 CFR Part 1308 as set forth below:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.26(a) is amended by adding, in alphabetical order, one new entry to the Table of Excluded Veterinary Anabolic Steroid Implant Products, to read as follows:

§ 1308.26 Excluded veterinary anabolic steroid implant products.

(a) * * *

TABLE OF EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS

Trade name	Company	NDC code	Delivery system	Ingredients	Quantity
*	*	*	*	*	*
Implus™–H	The Upjohn Company, Kalamazoo, MI.	0009–0434–01	20 implant belt 8 pellets/implant.	testosterone propionate estradiol benzoate.	200 mg/implant, 20 mg/implant
*	*	*	*	*	*

order extending sunset date and amending final rule, Order No.497–C, 57 FR 9 (Jan. 2, 1992), III FERC Stats. and Regs. ¶ 30,934 (1991), *reh'g denied*, 57 FR 5818 (Feb. 8, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992), *order on remand and extending sunset date*, Order No. 497–D, 57 FR 58978 (Dec. 14, 1992), 61 FERC ¶ 61,307 (Dec. 4, 1992).

[8] FERC Stats. and Regs. [Regulations Preambles 1986–1990] ¶ 30,868, at pp. 31,592–31,593 (1989).

Dated: March 12, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–6262 Filed 3–18–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8458]

RIN 1545–AJ35

Real Estate Mortgage Investment Conduits; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains a correction to Treasury Decision 8458, which was published in the **Federal Register** for Thursday, December 24, 1992 (57 FR 61293). The final regulations relate to real estate mortgage investment conduits (REMICs).

EFFECTIVE DATE: December 24, 1992.

FOR FURTHER INFORMATION CONTACT: Carol A. Schwartz (202)–622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections provide rules under sections 860A through 860G of the Internal Revenue Code.

Need for Correction

As published, T.D. 8458 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of final regulations (T.D. 8458), which was the subject of FR Doc. 92–30944, is corrected as follows:

§ 1.860A–0 [Corrected]

1. On page 61300, column 2, § 1.860A–0, the entry for section 1.860G–2(a)(1)(i) is corrected to read "The 80-percent test.".

2. On page 61300, column 2, § 1.860A–0, the entry for section 1.860G–2(c)(3)(ii) is corrected to read "Advances of taxes, insurance payments, and expenses."

§ 1.860A–1 [Corrected]

3. On page 61301, column 1, § 1.860A–1(b)(2)(ii) introductory text, last line of the paragraph, the language "before June 30, 1992 if—" is corrected to read "before June 30, 1992, if—"

4. On page 61301, column 1, § 1.860A–1(b)(2)(iii), ninth line of the paragraph, the language "value requirement in § 1.860E–1(a)(1)" is corrected to read "value requirement in 1.860E–1(a)(1)".

§ 1.860G–1 [Corrected]

5. On page 61307, column 1, § 1.860G–1(a)(3)(v)(A), tenth line of the paragraph, the language "based on total amount available for" is corrected to read "based on the total amount available for the".

Dale D. Goode,

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

[FR Doc. 93–5895 Filed 3–18–93; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 1

[T.D. 8468]

RIN 1545–AQ67

TeleFile Voice Signature Test; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to temporary regulations.

SUMMARY: This document contains corrections to Treasury Decision 8468, which was published in the **Federal Register** for Wednesday, January 13, 1993 (58 FR 4079). 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.

EFFECTIVE DATE: January 14, 1993.

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

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations that are the subject of this correction provide rules under sections 6012, 6061 and 6065 of the Internal Revenue Code.

Need for Correction

As published, T.D. 8468 contains an error which may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the temporary regulations (T.D. 8468), which was the subject of FR Doc. 93–658, is corrected to read as follows:

On page 4080, column 1, in the authority citation following instructional "Paragraph 1.", lines 1 and 2, the language "Authority: 26 U.S.C. 7805 * * * Section 1.6012–7T also issued under 26 U.S.C. 6012." is corrected to read "Authority: 26 U.S.C. 7805".

Dale D. Goode,

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

[FR Doc. 93–5889 Filed 3–18–93; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Storage and Handling of Liquefied Petroleum Gases

CFR Correction

In title 29 of the Code of Federal Regulations, parts 1900 to 1910 (§§ 1901.1 to 1910.999), revised as of July 1, 1992, on page 335, in the second column, in § 1910.110 (d)(11), the first sentence should be removed.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1 93–002]

Safety Zone Regulations: Kill Van Kull, NY and NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone in the waters near Bergen Point West Reach in the Kill Van Kull of New York and New Jersey. This zone imposes requirements in addition to the Regulated Navigation Area (RNA) already in existence for these waters. This zone is divided into two sections. The first is the southern portion of the channel which contains a work area where concentrated drilling and blasting will be conducted and no vessel is permitted to transit. The second section includes the remainder of the safety zone which surrounds the work area. Vessel passage in this section is permitted under the criteria set forth in these regulations. This action is necessary to protect the maritime

community from the possible dangers and hazards to navigation associated with the extensive blasting and dredging operations which are being conducted in the work area of the channel and with the restrictions in channel width.

EFFECTIVE DATE: These regulations become effective at 8 a.m., March 8, 1993 and terminate at 8 a.m., December 1, 1993, unless terminated sooner by Captain of the Port (COTP) NY.

FOR FURTHER INFORMATION CONTACT: LTJG L.D. Johnson of Captain of the Port, New York (212) 668–7934.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LTJG L.D. Johnson, Project Manager, Captain of the Port, New York, and LCDR J. Stieb, Project Attorney, First Coast Guard District, Legal Office.

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM would delay this project's effective date and would be contrary to the public interest since immediate action is needed to protect the public from the dangers associated with this channel deepening project.

On April 7, 1992 a final rule was published as § 165.165 of this title, which imposed a Regulated Navigation Area (RNA) over the entire Kill Van Kull (KVK) for the duration of a three year deepening project. The Coast Guard COTP New York now deems it necessary to establish this safety zone based on daily experiences and studies compiled since the initiation of the KVK dredging operations. By so doing, the users of this waterway and the immediate waterfront communities will be safeguarded from the hazards associated with this ongoing project. This safety zone establishes additional temporary restrictions within its boundaries which require the employment of assist vessels (dependent upon the length of a vessel) and apply specific requirements under certain weather conditions as well as tidal current conditions during this most difficult phase of the dredging project.

Background and Purpose

In August 1991, the Army Corps of Engineers (ACOE) and the Port Authority of New York and New Jersey commenced an extensive channel deepening project in the Kill Van Kull and Constable Hook area. The Coast Guard published a Regulated Navigation Area on April 7, 1992 to ensure the safety of vessels in the areas of blasting and dredging. On January 13, 1993, the ACOE notified the Coast Guard that they were prepared to begin operations in the area of Bergen Point West Reach (Phase V of the RNA) on March 8, 1993.

In May 1992, after publication of the RNA, the National Marine Research Center submitted a study to the U.S. Coast Guard COTP, New York. This study used the Marine Safety International's Computer Aided Operations Research Facility (MSI/CAORF) full-mission, real-time ship-handling simulator. During the study, New York Harbor pilots conned simulated vessels of various characteristics around the southern tip of Bergen Point, New Jersey, between Newark Bay and Bergen Point West Reach of the KVK. Currents, wind conditions, bank forces, tug assistance, vessel aerodynamics and hydrodynamics and other variables were represented. Representatives of the Port of New York, the Corps of Engineers and Coast Guard Vessel Traffic System (VTS) New York participated in the design of the tests and in formulating the conclusions and recommendations. The MSI/CAORF study revealed that vessels with a smaller Length Over All (LOA) could transit this area safely under the maximum credible adverse conditions. The study recommended that any operational restrictions take into account the LOA of vessels and that restrictions be placed on vessels under certain wind conditions. The Port Authority of New York and New Jersey gathered local pilots, vessel operators, and Coast Guard VTS New York to review the results of the MSI/CAORF study. This group reached a consensus that expanded upon the study recommendations, incorporating currents, winds, vessel size and local hands-on experience.

Based on the MSI/CAORF study, lessons learned from vessel groundings and collisions, and experience gained during the previous two years of the project, the Captain of the Port believes it is necessary to impose restrictions in the area of Bergen Point West Reach in addition to the requirements of the existing RNA. The area included within this safety zone is now regulated by regulations (1) through (7) of the RNA and the additional regulations implemented in this rulemaking. These safety zone regulations, in conjunction with the existing RNA regulations, are designed to allow vessels to transit safely and to protect the port and maritime community.

Regulatory Evaluation

These regulations are not major under Executive Order 12291 and not significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). In light of the regulations' limited scope, the small size of the affected area, the short duration, and the advance notice available to the community, the Coast Guard expects the economic impact of this rulemaking to be so minimal that a Regulatory Evaluation is unnecessary. The channel will not be completely closed therefore allowing vessels to still make their destination with minor restrictions. Vessel operators who do not wish to comply with the safety zone restrictions in this area of the KVK have the option of choosing the south route by taking the Arthur Kill to or from Newark Bay.

Small Entities

Because it expects the impact of these regulations to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of these regulations and concluded that under section 2.B.2.c. of Commandant Instruction M16475.1B, it is an action under the Coast Guard's statutory authority to protect public safety, and thus is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Vessels, Waterways.

Regulations

In consideration of the foregoing, part 165 of title 33, Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5, 49 CFR 1.46.

2. A new § 165.T 01–002 is added to read as follows:

§ 165.T 01–002 Safety Zone: Kill Van Kull, Bergen Point West Reach—New York and New Jersey.

(a) *Location.* (1) The following area has been declared a Safety Zone: All waters of the Kill Van Kull Channel, bounded by the following points:

Latitude	Longitude
	074°08′32″W
40°38′27″N	074°08′52″W
40°38′24″N	074°09′03″W
40°38′25″N	074°09′14″W
40°38′29″N	074°09′07″W
40°38′40″N	074°08′53″W
40°38′40″N	074°08′44″W
40°38′34″N	074°08′32″W
40°38′35″N	

to buoy "G 13"

thence to the point of the beginning.

(2) Within this safety zone exists a "WORK AREA" where concentrated drilling and blasting is being conducted. The "WORK AREA" includes all waters bounded by the following points:

Latitude	Longitude
	074°08′32″W
40°38′27″N	074°08′52″W
40°38′24″N	074°08′55″W
40°38′31″N	074°08′43″W
40°38′29″N	074°08′33″W
40°38′31″N	

thence to the point of the beginning.

The eastern and western edges of this "WORK AREA" are marked by lighted buoys set by the Coast Guard.

(b) *Effective date.* These regulations become effective at 8 a.m., e.s.t. March 8, 1993. They terminate at 8 a.m., December 1, 1993, unless terminated sooner by COTP NY.

(c) *Regulations.*

(1) "WORK AREA": In accordance with the general regulations in § 165.23 of this part, entry into or movement within the "WORK AREA" of the safety zone is prohibited unless authorized by the Captain of the Port.

(2) For all other waters of the safety zone described in paragraph (a)(1) the COTP has included the following requirements in addition to paragraphs (d) (1) through (6) of § 165.165.

(i) Prior to entering this safety zone, the master, pilot, or operator of each vessel, 300 gross tons or greater and tugs with tows, shall notify Vessel Traffic Center (VTC) New York regarding the employment of assist vessels and intentions while transiting the safety zone.

(ii) Tug requirements: All vessels (including all tow configurations from stem to stern) over 350 feet in length require one assist vessel. All vessels over 700 feet require two assist vessels.

(iii) Tidal Current Restrictions: Vessels over 700 feet in length with a draft greater than 33 feet are restricted to movements within one hour either side of the slack water on ebb and flood tides while outbound.

(iv) Astern tows: Hawser tows are not permitted unless the tow is accompanied by an assist vessel.

(v) Wind conditions:

(A) In winds from 20 to 34 knots:

(*1*) cargo ships may not transit through the safety zone.

(*2*) tankers in ballast may not transit through the safety zone.

(*3*) tugs with tank barge tows less than 350 feet (stem of tug to stern of barge) loaded or light, require an assist vessel.

(B) In winds greater than 34 knots, no vessels 300 gross tons or greater and all tugs with tows are prohibited from transiting the safety zone.

(3) Waiver. The Captain of the Port New York may, upon request, authorize a deviation from any regulation in this section if it is found that the proposed operations can be done safely. An application for deviation must be received not less than 4 hours before the intended operation(s) and must state the need and describe the proposal.

Dated: February 26, 1993.

R.M. Larrabee,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 93–5737 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7062]

Changes in Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: William R. Locke, Chief, Risk Studies Division, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646–2766.

SUPPLEMENTARY INFORMATION: The modified base (100-year) flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the flooplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The

community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

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 modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Impact Analysis

This rule is not a major rule under Executive Order 12291, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 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.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Alabama:					
Tuscaloosa	City of Northport	June 19, 1992, June 26, 1992, *The Tuscaloosa News.*	The Honorable Wayne Rose, Mayor of the City of Northport, 2705 Eleventh Avenue, P.O. Box Drawer No. 309, Northport, Alabama 35476.	May 28, 1992	010202 D
California:					
Sacramento	City of Sacramento	February 19, 1993, February 26, 1993, *Sacramento Bee.*	The Honorable Joe Serna, Jr., Mayor, City of Sacramento, City Hall, Room 205, 915 I Street, Sacramento, California, 95814–2672.	Jan. 29, 1993	060266
Sacramento	Unincorporated Areas	February 17, 1993, February 24, 1993, *Sacramento Bee.*	Mr. Douglas M. Fraleigh, Director, Sacramento County Department of Public Works, 827 Seventh Street, Room 304, Sacramento, California 95814.	Jan. 29, 1993	060262
Colorado:					
Boulder	City of Longmont	March 3, 1993, March 10, 1993, *Longmont Daily Times.*	The Honorable Fred Wilson, Mayor, City of Longmont, Civic Center Complex, 408 Third Avenue, Longmont, Colorado 80501.	Feb. 19, 1993	080027
Illinois:					
Lake	Village of Lake Barrington.	February 18, 1993, February 25, 1993, *Barrington Courier-Review.*	Ms. Nancy Smith, President of the Village of Lake Barrington, Lake County, 23555N Old Barrington Road, Barrington, Illinois 60010.	To be determined	170372 D
Kansas:					
Sedgwick	City of Wichita	February 11, 1993, February 18, 1993, *The Wichita Eagle.*	The Honorable Frank Ojile, Mayor, City of Wichita, City Hall, First Floor, 455 North Main Street, Wichita, Kansas 67202.	Jan. 26, 1993	200328

State and County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Massachusetts:					
Plymouth	Town of Scituate	February 4, 1993, February 11, 1993, *Scituate Mariner.*	Mr. Richard H. Agnew, Administrator of the Town of Scituate, Plymouth County, Town Hall, Scituate, Massachusetts 02066.	Jan. 28, 1993	250282 D
Minnesota:					
Anoka	City of Columbia Heights.	February 23, 1993, March 2, 1993, *The Focus News.*	The Honorable Donald Murzyn, Jr., Mayor of the City of Columbia Heights, Anoka County, 590 40th Avenue, NE, Columbia Heights, Minnesota 55421–3878.	Feb. 16, 1993	270010
South Carolina:					
Aiken and Edgefield.	City of North Augusta	March 19, 1993, March 26, 1993, *The Star.*	The Honorable Thomas W. Greene, Mayor of the City of North Augusta, Aiken and Edgefield Counties, P.O. Box 6400, North Augusta, South Carolina 29841.	Mar. 12, 1993	450007
Tennessee:					
Shelby	City of Memphis	February 12, 1993, February 19, 1993, *The Commercial Appeal.*	The Honorable W.W. Herenton, Mayor of the City of Memphis, Shelby County, 125 North Mid-America Mall, Memphis, Tennessee 38103.	Feb. 5, 1993	470177 C
Texas:					
Bell	Unincorporated Areas	February 18, 1993, February 25, 1993, *Temple Daily Telegram.*	The Honorable John Garth, Judge, Chairman, Bell County, Board of Commissioners, P.O. Box 768, Belton, Texas 76513–0768.	Jan. 29, 1993	480706
Brazoria	City of Pearland	February 24, 1993, March 3, 1993, *The Journal.*	The Honorable Vic Coppinger, Mayor, City of Pearland, P.O. Box 2068, Pearland, Texas 77588.	Feb. 15, 1993	480077
Tarrant	City of Benbrook	January 28, 1993, February 4, 1993, *The Benbrook News.*	The Honorable Jerry Dunn, Mayor, City of Benbrook, P.O. Box 26569, Benbrook, Texas 76126.	Jan. 15, 1993	480586

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

Issued: March 9, 1993.

Francis V. Reilly,

Deputy Administrator, Federal Insurance Administration.

[FR Doc. 93–6355 Filed 3–18–93; 8:45 am]

BILLING CODE 6718–03–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AB65

Migratory Bird Harvest Information Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) and State wildlife agencies (States) are cooperatively establishing a national Migratory Bird Harvest Information Program (Program) in which migratory game bird hunters will be required to participate by supplying their names, addresses, and other necessary information. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds. The quality and extent of information about harvests of migratory game birds must be improved in order to better manage these populations. Hunters' names and addresses will be used to provide a sampling frame for a voluntary survey which will improve harvest estimates for migratory game birds.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Robert L. Jessen, Migratory Bird Harvest Information Program Coordinator, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, 10800 Laurel-Bowie Road, Laurel, Maryland 20708–

3600, (301) 317–6300, FAX (301) 317–6301.

SUPPLEMENTARY INFORMATION: The purpose of this rule is to facilitate the collection of needed information about the harvest of migratory game birds. This rule revises the migratory bird hunting regulations to require hunters to provide annually their names, addresses, and other necessary information as a condition for hunting migratory game birds. This information will provide a sampling frame for the national Migratory Bird Harvest Survey.

The Service and States plan to implement and study this Program, starting with a 2-year initial phase in 3 volunteer States beginning in 1992. During this initial phase, the requirement to participate in the Program will not apply on Federal Indian Reservations or to tribal members hunting on ceded lands. The States will provide the names, addresses, and other necessary information obtained from hunters, and the Service will conduct a national Migratory Bird Harvest Survey. The Program will be evaluated to determine the adequacy and timeliness of the sample and the time burden, cost, and other impacts on hunters, State license agents, States, and the Service. The approaches used in different States will be compared. Alternative survey designs will be investigated, and the U.S. Bureau of the Census will be asked to review the survey procedures. Alternate methods will be acceptable if any resulting biases in the estimates do not compromise the quality of the survey and if procedures conform to accepted statistical standards.

After evaluation in 1994 of this initial phase and consideration of proposed changes, other States will be phased into the Program, with about 1 million hunters added each year until all States participate in 1998. The suggested implementation schedule was published in the Federal Register on June 10, 1992, (57 FR 24736).

The names, addresses, and other information for an adequate sample of hunters are needed in time for hunting-record forms to be distributed to selected hunters before they forget the details of their hunts. Because of this fundamental need, States have only a short time to provide hunter names and addresses. Minimum survey standards will be developed during the next 2 years to ensure the quality of survey data. As each new State is phased into the Program, an agreement will be developed with each State in order to identify and resolve specific reporting or data-capture problems. This will ensure that each State will be providing reliable survey data and that no material biases are incorporated into the system.

A Program validation ("Migratory Bird Harvest Information Program Participant") will be printed on the annual State hunting license or supplementary permit for those hunters who participate in the Program. The State may charge these hunters a small handling fee to compensate agents and to cover the State's administrative costs associated with implementing the Program. A hunter will not be required to obtain evidence of Program participation in more than one State per year.

To reduce survey costs and to identify hunters who hunt less-commonly hunted species, migratory bird hunters will be asked the following questions:

1. Do you plan to hunt migratory game birds during [season]? [This screening question is needed only if a State asks all hunters to provide their names, addresses, and other information needed by the Program.]
2. Is this the first license you have had validated for hunting migratory game birds this hunting season? ____Yes ____No
3. Did you hunt these birds last season in the U.S.?
   _____Ducks
   _____Geese
   _____Cranes
   _____Coots
   _____Snipe
   _____Rails
   _____Mourning doves
   _____White-winged doves
   _____Band-tailed pigeons
   _____Woodcock
   _____Gallinules
4. How many did you bag last season in the U.S.?

	None	1–5	6–10	11–30	31+
Ducks	.....	.....	.....	.....	.....
Geese	.....	.....	.....	.....	.....
Doves	.....	.....	.....	.....	.....
Woodcock	.....	.....	.....	.....	.....

Question #4 will identify which success category (e.g., none, 1–5, etc.) a hunter was in during the previous year and will allow stratification of the sample. A stratified sample (multiplying the number of hunters in each category by the average seasonal bag per hunter in that category and then adding the results for each category) will provide a better estimate of total harvest and will not require as large a sample size as a standard sample (multiplying the total number of hunters by the average seasonal bag per hunter).

To protect hunters' privacy, it is the policy of the Service to use the names and addresses only for conducting hunter surveys and for no other purpose. All records of hunters' names and addresses will be deleted after the surveys, and no permanent record of names and addresses would be maintained by the Service. If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses.

Review of Comments and the Service's Response

Comments on the Proposed Rule were received from 1 Flyway Council, 19 States, 6 organizations, and 3 individuals through September 16, 1992. Although none of the comments questioned the need for the Program or for improved migratory bird harvest estimates, almost all expressed concerns about the implementation of the Program. The Program was supported by the States of Florida, Maryland, Minnesota, Missouri, Pennsylvania and South Carolina, and by the Humane Society of the United States, the Wildlife Legislative Fund of America, and the Wildlife Management Institute.

1. Cost of and Responsibility for the Program

Comments: Concerns about the cost of the Program to States were expressed by the Atlantic Flyway Council and the States of Illinois, Louisiana, Iowa, Maryland, Michigan, Missouri, Montana, North Carolina, Pennsylvania, South Dakota, Washington, and Wisconsin. The notice of intent, published in the Federal Register on June 24, 1991, (56 FR 28812) suggested that the Service might pay for printing

of the survey cards and implied that it might pay for the postage with Option 1, but the proposed rule of June 10, 1992, did not indicate who is responsible for paying for the printing and postage of these forms. State legislative action often is required to charge a fee, covering distribution and administrative costs, but legislatures are frequently reluctant to impose additional fees. Concern that the Proposed Rule was perceived to transfer administrative and fiscal responsibility to the States for a program that is primarily a Federal responsibility was expressed by the States of Louisiana, Pennsylvania, South Carolina, and South Dakota.

Service Response: The Service is sympathetic to these problems, but the Federal financial contribution to this joint endeavor will be dependent on the Service budget. The Service should not fund portions of State hunting licenses. The Service views the issuing of hunting licenses and permits to be a State responsibility. A Federal permit system would duplicate State systems and would not be in the interest of either the States or the Service. However, the Service is seeking suggestions on methods of providing States with technical assistance to help them acquire the required information and will enter into cooperative agreements to solve implementation problems as they arise.

2. Impact of Procedures on State Wildlife Agencies

Comments: Concern that the required procedures would result in major changes to State license procedures was expressed by the Atlantic Flyway Council and States of Arizona, Delaware, Maryland, North Carolina, Pennsylvania, and Washington. On the other hand, there was general agreement that the information was necessary. Problems in obtaining the cooperation of State license vendors were anticipated by the States of Illinois, Minnesota, Montana, North Carolina, and South Dakota. The requirement for license vendors to return names and addresses within 5 days was considered unrealistic by the Atlantic Flyway Council and the States of Delaware, Illinois, Iowa, Maryland, Minnesota, Montana, Nevada, North Carolina, South Dakota, and Wisconsin. The States of Delaware and Maryland said that their 30-day reporting requirement was seldom met. Illinois indicated that less than 30% of their vendors provided names and addresses for their State survey. Minnesota said that they had virtually no means to force compliance in producing hunter names. Consequently, 48% of the names and addresses for their State survey came from an area where only 29% of the licenses were sold. The use of separate name and address cards was suggested by the States of Arizona, Florida, Iowa, Maryland, Minnesota, Missouri, Montana, North Carolina, and Washington. Arizona doubted that the Service could contact hunters prior to season opening dates. The use of names and addresses from the previous year's licenses was suggested by the States of Illinois and Wisconsin. Louisiana indicated that they would not be able to provide a count of the number of migratory bird hunters by April 15, while the States of Iowa and Wisconsin felt that the count was redundant if the Service has the names.

Service Response: The Service will continue to work with States during the initial period to identify ways of minimizing the impact on State procedures. To reduce memory bias, it is important to provide hunters with record forms as soon as possible after they start hunting each year so that hunters do not forget the dates, counties, and bag for individual trips. Two alternatives are being considered: (1) Providing names and addresses weekly (postmarked within 5 working days) and (2) providing the previous year's names and addresses in time to send record forms before the season and also providing, on a monthly basis, the current year's names and addresses of hunters who did not buy a license the previous year. Paper name and address forms may be sent to the Service for data entry if acceptable machine-scannable forms are used. Separate forms have the advantage of separating the financial accounting for licenses from the collection of names and addresses but have the disadvantage of requiring duplicate forms and increasing printing and handling costs. The count of the number of migratory bird hunters is necessary because harvest is estimated by multiplying the average bag by the number of hunters. The count is needed by April 15 in order that harvest estimates can be provided prior to the June migratory bird hunting regulations meetings and associated public hearing. If license vendors promptly supplied the names and addresses of all migratory bird hunters, the count could be obtained from that source. However, some States have suggested that vendor cooperation will be a problem, and an independent count would provide a check on the cooperation of license vendors.

3. Level of Participation by all Migratory Bird Hunters

Comments: The Atlantic Flyway Council and the States of Florida, Illinois, Louisiana, Michigan, North Carolina, and Wisconsin felt that those hunters who are not required to obtain an annual State hunting license (e.g. junior hunters, senior hunters, lifetime licensees, landowners) should not be required to participate. Illinois said that about 20% of their hunters do not require annual licenses. North Carolina indicated that a large proportion of their most active hunters have lifetime licenses. They also do not have current addresses for older citizens or the disabled who do not require annual licenses, and they do not know how many are still active. Missouri strongly supported the requirement to annually provide names and addresses. North Carolina suggested that States provide the names and addresses of a random sample of their migratory bird hunters instead of all the names and addresses.

Service Response: Excluding those hunters who are not required to obtain an annual State hunting license from the Program also excludes their harvest from the estimates. The importance of their harvest depends on how many hunters are excluded and on the number of birds they bag. The comments indicated that excluding these hunters may result in serious bias. The Service is estimating the effect of excluding these hunters and would appreciate any information that may be available. Minimum survey standards are being developed. One suggestion is to allow a class of hunters to be excluded from participating in the Program if (1) it is periodically demonstrated that only minimal bias in the estimates results from their exclusion or (2) a statistically sound alternate sampling procedure is implemented. It is anticipated that essentially all migratory bird hunters would be included in the sampling frame, although annual participation would not be required if a list of names and current addresses were available from another source. For example, if lifetime licensees and senior hunters provided their driver's-license numbers and if the motor vehicles department maintained a current address list that was available to the wildlife agency, these hunters could be sampled from this list of hunters.

4. Type of Information Provided by Hunters

Comments: The license vendors would ask questions about the kinds of birds hunted the previous year and about the numbers of birds bagged. The

States of Florida, Iowa, Louisiana, and Montana suggested that the questions be simplified. Louisiana suggested allowing hunters to furnish their driver's-license number instead of their name and address.

Service Response: It is important to identify those hunters who hunt infrequently hunted species. It would be impractical to survey the harvest of these species without first identifying those who hunt them. The question about the bag of ducks, geese, doves, and woodcock is needed to reduce the cost of surveys through stratification. Identifying the few hunters who bag most of the birds will allow the survey to sample them at a higher rate, reducing the number of questionnaires without biasing the results. The Service agrees that allowing hunters to furnish driver's-license numbers instead of their names and addresses would reduce the burden on hunters and license vendors and would facilitate data entry. Driver's-license numbers will be accepted, if the State can promptly provide the names and addresses of selected hunters and if the license vendors ask the hunters to provide their addresses if the addresses on the licenses are not current.

5. Use of Names and Addresses

Comments: The Atlantic Flyway Council believed that the States should have access to the list of names and addresses. The States of Missouri and Pennsylvania stated that the States needed the option to conduct statewide surveys using names that may overlap with Federal surveys.

Service Response: If States collect names and addresses under State authority, the Federal requirement will not apply to State uses of these names and addresses. The Service discourages asking an individual hunter to participate in more than one survey and will cooperate with States to avoid overburdening individuals.

6. Scheduling of State Participation

Comments: The Atlantic Flyway Council suggested that the Service consult with the separate States prior to assigning them an entry year.

Service Response: The Service will consult with the States. To avoid operational problems in implementing the Program, it is necessary to phase-in the Program with about 1 million migratory bird hunters added each year for 5 years. The suggested implementation schedule was published in the **Federal Register** on June 10, 1992, (57 FR 24736).

7. Survey Procedures

Comments: Michigan suggested that if hunters were sampled separately in each State they hunted, the questions could be limited to those applicable to the species hunted in the State. They also suggested allowing the restructuring of the questions to facilitate the use of point-of-sale terminals. South Dakota suggested that a standardized validation should be adopted. The need to improve the survey procedures was noted by the States of Illinois and Missouri, and the Humane Society of the United States. The Humane Society of the United States urged the Service to estimate the illegal take of migratory birds. Pennsylvania was concerned that the lack of data-collection standards would compromise data quality. The North American Wildlife Foundation suggested a national bird-tagging program.

Service Response: The Service seriously considered the suggestion to sample hunters separately in each State they hunt because it would simplify the questions and avoid the necessity of asking about the hunting of species that do not occur in the State. It would also eliminate the need to ask if the hunter had previously participated in the Program in another State. That question would be difficult because the hunter may not know the answer if participation is included with a State license. However, sampling hunters separately would require them to pay a separate fee in each State that requires a fee. Consequently, hunters will be sampled once to avoid requiring individuals to pay more than one fee for the Program per year. The questions were designed for paper forms and could be simplified for point-of-sale terminals if equivalent information was provided. The Service is implementing improved survey procedures with both the current Waterfowl Harvest Survey and the proposed Migratory Bird Harvest Survey (details are available on request). The Service shares the concern about data quality and will cooperate with the States in developing quality-control procedures. Tagging programs are useful for limiting harvest, but it is not clear how such a program could be used to estimate harvest without a costly and burdensome check-station program.

8. Extending Comment Period

Comments: South Carolina suggested that the final rule be postponed until mid-August to allow time for States to discuss the Program during the upcoming Flyway meetings.

Service Response: Comments have been accepted through September 16, 1992.

9. Public Information Needs

Comments: The need to inform hunters and license vendors about the Program was identified by Washington and the Wildlife Legislative Fund of America.

Service Response: The Service concurs with the need for a public-information effort and is providing a video and a draft of a popular article explaining the Program.

10. Indian Tribes

Comments: The Hoopa Valley Tribe noted that Federally-recognized Indian tribes and their members are free to exercise reserved fishing and hunting rights, including the right to hold managed hunts for nonmembers within their reservations unencumbered by State regulation. Consequently, the Tribe requested that the rulemaking be changed to indicate that the State of California lacks authority to administer the Program on tribal lands.

Service Response: The Service recognizes the sovereignty of Indian tribal governments and supports their right of self-determination and self-government. Nothing in this or earlier **Federal Register** documents was meant to imply that the Program can or should be administered by States for the Tribes. Many Tribes have their own fish and wildlife programs.

Many Indian Tribes have strong cooperative relationships in game management with the State in which the tribal lands are located. The Service enthusiastically supports these cooperative management efforts because they better serve the long-term interests of migratory game bird conservation and hunting. In the interests of migratory bird resource protection, the Service would like to have the Tribes participate in this expanded Harvest Information Program. The Service will explore inclusion of tribal governments in the Program and may then propose such action in a future **Federal Register** document.

11. Inclusion of Crows

Comments: Arizona suggested that crow hunting should be included in the survey. Missouri suggested excluding crows from the Program until it is fully operational, primarily because season dates unduly complicate distribution and collection of materials from vendors. Unified Sportsmen of Pennsylvania strongly opposed inclusion of crows and grackles because crows cause damage to crops and

communities and because crow hunting encourages youth to take up sport hunting. Kelly McPhillips, South Dakota Game, Fish, and Parks Department, thinks it is important to monitor the harvest of crows.

Service Response: The Service decided to limit the Program to migratory game birds, because there does not appear to be a critical need for harvest information on crows and because the long season would make it difficult to gather information on other migratory birds.

12. Release of Names and Addresses

Comments: The South Carolina Waterfowl Association and the International Crane Foundation suggested that the Service keep an updated list of names and addresses of all migratory bird hunters and make the list available to conservation organizations working to enhance our migratory bird populations.

Service Response: In the interest of protecting individuals' privacy and encouraging participation, lists of the names and addresses of migratory game bird hunters will not be released to non-governmental organizations.

13. Comments From Individuals

Comments: Steven Anderson was concerned that the Service is becoming anti-hunting, especially on wildlife refuges. Steven Sheriff supported the Program and stressed the importance of annually including all migratory bird hunters and the importance of reducing memory bias.

Service Response: The Service views hunting as a legitimate recreational activity where and when wildlife populations are sufficiently healthy to support that activity. In order to determine the "health" of the populations and appropriateness of seasons and bag limits, the Service and States must have reliable harvest information. Further, the Service views hunting as a viable wildlife-management tool, under the appropriate circumstances. In addition, the Service takes pride in the fact that it has the lead for the hunting portion of the Secretary of the Interior's "Enjoy Outdoors America" initiative, which is a program to promote and enhance the responsible use of Federal lands for recreational purposes.

14. Use of "Harvest Indices"

Comments: Vernon L. Wright, Louisiana State University, suggested that an index which is repeatable from year to year is adequate, and that a defendable harvest estimate is not needed. He believed that there will be a problem requiring the participation of junior and senior hunters, as well as certain other groups of hunters. With an index, these groups could be omitted as long as the harvest is consistent among groups.

Service Response: The Service does not agree that a "harvest index" that excludes certain groups of hunters would be adequate unless it can be shown the harvests of these groups is negligible. The use of an index assumes that the success of omitted hunters is the same as (or proportional to) the success of the included groups. That assumption is questionable because different groups of hunters may be influenced differently by changing hunting conditions. Even if the assumption is valid, it would be difficult to defend the harvest index and to demonstrate that the success of hunters excluded from the survey was proportional to those who were included.

NEPA Consideration

The establishment of this Harvest Information Program and options have been considered in the "Environmental Assessment: Migratory Bird Harvest Information Program." Copies of this document are available from the Service at the address indicated under the caption FOR FURTHER INFORMATION CONTACT.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects, approved by the Assistant Secretary for Fish and Wildlife and Parks on June 14, 1991, concluded that the establishment of a Migratory Bird Harvest Information Program was not a "major" rule and, as such, was not subject to Regulatory Analysis under Executive Order 12291. It was also concluded that the rule would not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*

This rule will eventually affect about 5 million migratory game bird hunters when it is fully implemented. It will require migratory game bird hunters to supply their names, addresses, and other necessary information in order that they can be sampled for a voluntary national harvest survey. Hunters will be required to have evidence of current participation in the Program on their person while hunting migratory game birds.

The States may require a small handling fee to compensate their hunting-license vendors and to cover their administrative costs. Many of the State hunting-license vendors are small entities, but this rule should not economically impact those vendors. Only migratory game bird hunters, individuals, would be required to provide this information, so this rule should not adversely affect small entities.

The collection of information contained in this rule has been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information is required from hunters to obtain the benefit of hunting migratory game birds.

The public reporting burden for this collection of information is estimated to average 0.015 hours 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. Comments regarding the burden estimate or any other aspect of these reporting requirements should be directed to the Service Information Collection Clearance Officer, MS–24 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–015, Washington, DC 20503.

Executive Order (EO) 12612—Federalism

The regulations do not have significant federalism effects as provided in EO 12612. Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act of 1918. State harvest surveys presently cannot provide adequate national estimates of migratory game bird harvests for the following reasons: Some States do not now conduct annual harvest surveys or maintain accessible lists of hunter names and addresses. Comparable information is not available from all States because States have different licensing laws regulating who must buy a hunting license and different survey procedures. The harvest of those hunters who can legally hunt without an annual State license is excluded from State estimates. Hunters might buy more than one type of license in a single State and might buy licenses from more than one State, introducing duplication problems. Currently, many State license lists are not available in time to permit distribution of hunter records early in the hunting season. Budget constraints often prevent States from conducting harvest surveys during certain years or

could cause some States to eliminate them completely.

These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State Governments, or intrude on State policy or administration. Therefore, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. In fact, the Service would cooperate with States in providing surveys to meet special management needs, and increased cooperation between Federal and State Agencies would reduce duplication of survey efforts.

Executive Order 12360—Taking of Individual Property Rights

Executive Order 12360 discussed guidelines for the taking of individual property rights. These rules, authorized by the Migratory Bird Treaty Act, do not affect any constitutionally-protected property rights. These rules would not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property.

Authorship

The primary author of this proposed rule is Paul H. Geissler, Chief, Branch of Surveys, working under the direction of Thomas J. Dwyer, Chief, Office of Migratory Bird Management.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons set out in the preamble, 50 CFR part 20 is amended as set forth below.

PART 20—MIGRATORY BIRD HUNTING

1. The authority citation for part 20 is revised to read as follows:

Authority: 16 U.S.C. 703–711, 712, and 742 a–d and e–j.

2. Section 20.20 is added to subpart C to read as follows:

§ 20.20 Migratory Bird Harvest Information Program.

(a) The collections of information contained in § 20.20 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0015. The information will be used to provide a sampling frame for the national Migratory Bird Harvest Survey. Response is required from hunters to obtain the benefit of hunting migratory game birds. Public reporting burden for this information is estimated to average 0.015 hours 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 the burden, to the Service Information Collection Clearance Officer, MS–224 ARLSQ, Fish and Wildlife Service, Washington, DC 20240, or the Office of Management and Budget, Paperwork Reduction Project 1018–0015, Washington, DC 20503.

(b) Each person hunting migratory game birds in California, Missouri, and South Dakota shall have given his or her name, address, and date of birth to the respective State hunting licensing authority and shall have on his or her person evidence, provided by that State, of compliance with this requirement.

(c) Nothing in paragraph (b) of this section shall apply to hunters on Federal Indian Reservations or to tribal members hunting on ceded lands.

Dated: December 23, 1992.

Mike Hayden,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 93–6372 Filed 3–18–93; 8:45 am]

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Proposed Rules

Federal Register
Vol. 58, No. 52
Friday, March 19, 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.

FARM CREDIT ADMINISTRATION

12 CFR Part 611

RIN 3052-AB22

Organization; Reorganization Authorities for System Institutions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (Board), proposes for public comment amendments to the regulations governing the procedure by which certain Farm Credit System (Farm Credit or System) institutions may terminate their Farm Credit status. The amendments would expand the application of the regulations to all System associations, add provisions that would apply to the termination of one or more associations whose assets and direct loan from the district bank constitute a significant proportion of the assets and direct loans in the district, and make technical and conforming revisions. The FCA also proposes for public comment regulations governing the procedure by which Farm Credit banks may terminate their Farm Credit status. The Agricultural Credit Act of 1987 (1987 Act), enacted on January 6, 1988, amended provisions of the Farm Credit Act of 1971 (1971 Act) by establishing a procedure under which a Farm Credit institution may terminate its Farm Credit status by becoming chartered as a financial institution under other Federal or State authority. The Food, Agriculture, Conservation and Trade Act Amendments of 1991 (1991 Act), enacted on December 13, 1991, amended the 1971 Act by extending the length of the FCA's review period for the approval of disclosure information relating to terminations and other corporate restructuring. The Farm Credit Banks and Associations Safety and Soundness Act of 1992 (1992 Act), enacted on October 28, 1992, further amended the 1971 Act by adding clarifying provisions for repayment of certain types of debt obligations. The 1971 Act, as amended, imposes certain requirements on an institution seeking to terminate its status as a Farm Credit institution; authorizes the FCA to impose by regulation such other conditions as the FCA considers appropriate; and requires the FCA to promulgate regulations providing for the repayment of certain System assistance.

DATES: Comments must be received by April 19, 1993.

ADDRESSES: Comments should be submitted in writing, in triplicate, to Patricia W. DiMuzio, Division Director, Regulation Development Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Regulation Development Division, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Robert S. Child, Policy Analyst, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4498, TDD (703) 883-4444,
or
Rebecca S. Orlich, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 18, 1989, the FCA published an Advance Notice of Proposed Rulemaking (ANPRM) (54 FR 51763) requesting comments on the manner and process for implementing the new termination procedures under the 1971 Act. Based on a consideration of comments received in response to the ANPRM and other relevant factors, the FCA decided to promulgate one set of regulations for associations whose investment in the bank and whose direct loan from the bank constitute 25 percent or less of the investment and direct loan (referred to herein as "Small Associations") and another set of regulations for banks and for other associations, or any combination of associations seeking to terminate together, whose aggregate investments and loans exceed the 25-percent level (which associations are referred to herein as "Large Associations"). On July 12, 1990, the FCA published for public comment (55 FR 28639) proposed amendments to 12 CFR part 611 relating to the termination of Farm Credit status of Small Associations. Final regulations were adopted by the Board on January 23, 1991, were published in the Federal Register on January 30, 1991 (56 FR 3397), and became effective on March 11, 1991. The Board now proposes amendments to those regulations that would extend their application to Large Associations, impose additional requirements on Large Association terminations, and make technical and conforming revisions. The Board also proposes new regulations applicable to the termination of Farm Credit Banks (FCBs) and banks for cooperatives (BCs).

The proposed regulations would implement sections 7.10, 7.11, 6.9(e)(3)(C)(ii), 6.26(d)(1)(C) (iv) and (v), and 6.26(c)(5) (E) and (F) of the 1971 Act. Section 7.10 provides that a Farm Credit institution may terminate its Farm Credit status if it satisfies the following requirements:

(1) A 90-day advance notice to the FCA;

(2) Approval by the FCA Board;

(3) Approval by a Federal or State authority of a charter for a commercial bank, savings and loan, or other financial institution;

(4) The payment by the institution of the amount by which total capital of the institution exceeds 6 percent of its assets, such payments to be made to the Farm Credit System Insurance Fund if termination occurs after 1991;

(5) The payment or adequate provision for the payment of all outstanding debt obligations of the institution;

(6) Approval of the termination by a majority of the stockholders of the institution voting, in person or by written proxy, at a duly authorized stockholders' meeting, held prior to giving notice to the FCA Board; and

(7) The fulfillment of such other conditions as the Board, by regulation, considers appropriate.

Section 7.11 requires that any plan of termination, together with all information that will be distributed to the stockholders, must be submitted to the FCA Board for approval prior to the stockholder vote. If the plan is disapproved by the Board, the letter of disapproval must specify the reasons for

such disapproval. The 1991 Act amended this section to increase the time period for the FCA's review of the plan from 30 days to 60 days.

In addition, the 1992 Act amended sections 6.9(e)(3)(C)(ii), 6.26(d)(1)(C)(iv) and 6.26(c)(5)(E) of the Act to require any terminating bank to pay to the Farm Credit System Financial Assistance Corporation (FAC) the estimated present value of the bank's proportionate share of the Systemwide repayment obligations for FAC payments of: (1) Certain Capital Preservation Agreements; (2) merger assistance, eligible borrower stock retirement, and expenses of the Farm Credit System Assistance Board and the FAC; and (3) reimbursements to the Department of the Treasury for interest payments made to the FAC. Furthermore, under amended sections 6.26(d)(1)(C)(v) and 6.26(c)(5)(F), terminating associations must pay to their affiliated FCB a proportionate share of the present value of all of the bank's estimated future FAC repayments, excluding the assistance associated with the Capital Preservation Agreements.

The proposed regulations would add new subparts Q and R to part 611. Subpart Q would contain the termination requirements for FCBs terminating alone and FCBs terminating together with one or more associations. The subpart would incorporate by reference many of the provisions of subpart P and would have additional provisions relating to the calculation of the exit fee; divestment of Systemwide obligations on which the terminating bank is the primary obligor; and provision for satisfaction of joint and several liability on consolidated and Systemwide obligations. New subpart R, containing provisions applicable to terminations of BCs, would incorporate by reference many of the provisions of subpart P, as well as provisions of subpart Q relating to Systemwide obligations and FAC repayments.

The existing regulations in subpart P would be revised to be applicable to all associations and to reflect the amendments to section 6.26 of the 1971 Act for FAC repayments by associations and the amendment to section 7.11 of the 1971 Act increasing the time period for the FCA's review of disclosure documents to 60 days. Provisions applicable when a Large Association proposes to terminate would be added. The term "terminating association" has been revised to read "terminating institution" throughout the subpart because many of the provisions in subpart P would be incorporated by reference in proposed subparts Q and R. Technical and clarifying revisions have also been made to the existing regulations.

In drafting these proposed regulations, the FCA has taken into consideration the comments received in response to the ANPRM that relate to the termination of banks and the effect of the termination of Large Associations on the districts in which they are located. Comments on these issues were received from the then existing Federal Farm Credit Corporation of America (FCCA) on behalf of its member System banks and the Farm Credit Banks Funding Corporation (Funding Corporation), two law firms on behalf of several System associations, one FCB, and one trade association representing community banks.

Below is a section-by-section explanation of the proposed regulations, together with a discussion of relevant comments received in response to the ANPRM.

II. Section-by-Section Analysis

A. Subpart P—Termination of Farm Credit Status—Associations

1. Section 611.1200—General—Applicability

Paragraph (c) of this section and references thereto would be deleted, so that this subpart would be applicable to all Farm Credit associations.

2. Section 611.1205—Definitions

Section 611.1205 would be amended to add definitions for "Large Association" and "viability." A Large Association would be defined as an association whose investment in the FCB in its district is in excess of 25 percent of the bank's capital as computed according to generally accepted accounting principles (GAAP) or whose direct loan from the district FCB is in excess of 25 percent of the total loans of the bank. The definition would also include any two or more associations with the same affiliated FCB that seek to terminate together (or within 6 months of each other) and whose aggregate investments in the FCB or direct loan from the FCB exceeds the 25-percent level. "Viability" would be defined as the ability to sustain or commence profitable operations.

The proposed definition of GAAP is different from the definition in the current regulations in that the provision regarding the FCA's authority to interpret how GAAP should be applied has been deleted. In proposed § 611.1240, language has been added providing that the FCA may prescribe an accounting principle that is no less stringent than GAAP if the application is consistent with the objective of ensuring that the exit fee be calculated on a fair and reasonable basis.

3. Section 611.1210—Advanced Notification

Proposed § 611.1210(b)(1) would require the terminating institution to send a certified copy of the commencement resolution to both the FCA and the Farm Credit System Insurance Corporation (FCSIC). Section 611.1210(b)(2) has been revised to clarify that the brief announcement to all holders of equity must specify the effect of termination on the borrower's stock and on any borrower rights.

4. Section 611.1212—Filing Date of Termination Application

The Board proposes to revise § 611.1212(c) to provide that the FCA shall disapprove a termination application if the filing date that would otherwise be assigned pursuant to § 611.1212(a) would be less than 60 days after the FCA was notified by the terminating institution that it was contemplating the termination of its Farm Credit status. The current regulation provides for the filing date to be no earlier than 60 days after the FCA was notified, even if the filing date would otherwise be earlier. The change is proposed in order to eliminate any uncertainties about when the review period begins.

5. Section 611.1215—Farm Credit Administration Review and Approval and Section 611.1220—Voting Record Date and Stockholder Approval

Pursuant to the change in section 7.11(a)(2) of the 1971 Act made by the 1992 Act, the FCA review period for the termination application would be changed from 30 days to 60 days in paragraph (b) of § 611.1215 and in paragraph (a) of § 611.1220. In addition, paragraphs (e) and (f) of § 611.1215 have been revised to remove redundancies and to clarify that if a reconsideration vote is held, termination may occur no earlier than 15 days after the vote.

6. Section 611.1240—Exit Fee

Paragraph (b) of this section would be revised to delete the reference to the Farm Credit Assistance Fund, since payment of the exit fee was to be made to the Assistance Fund only until 1992. In the future, exit fee payments will be made only to the Farm Credit System Insurance Fund.

Paragraph (e) includes the authority of FCA to prescribe an accounting principle as explained in number 2 above. Paragraph (e)(2), was amended by adding "or subtractions from liabilities" in order to clarify that the

FCA may review any type of transaction outside of the ordinary course of business that may affect the exit fee.

Paragraph (i) is proposed to be added to allow certain tax liabilities and payments to the FAC to be deducted from the exit fee. These liabilities would not be booked as of the computation date, but would become liabilities at the time of termination due to the decision to terminate. This change was made in part because of the 1992 Act amendments to the 1971 Act providing for the payment of certain FAC obligations prior to termination. In addition, effective for the fiscal year beginning after December 15, 1992, a new accounting treatment (Statement of Financial Accounting Standards No. 109) requires institutions to recognize a tax liability on any patronage distribution from an FCB to taxable associations regardless of whether it is received in cash. Prior accounting rules generally did not require the recognition of any tax liability until the patronage was received in cash by the taxable association. Accordingly, no tax liability has been provided for the cumulative amount of allocated equities received by a taxable institution that have not been "redeemed" by the institution, prior to the date of implementation of the new accounting rules. The Board concluded that the net value of such patronage should be the same, whenever received, and has therefore determined that it would be appropriate in these termination regulations to calculate capital based on the after-tax impact of all patronage distributions.

7. Section 611.1250—Repayment of Debts

New paragraph (e) would be added to § 611.1250 to provide for the payment of a portion of the present value of the FCB's share of certain System FAC debt repayment obligations as of the quarter ended prior to the submission of the application. Pursuant to section 6.26 (c)(5)(F) and (d)(1)(C)(v) of the 1971 Act, as amended by the 1992 Act, the terminating association's share is based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, and payment is made to the affiliated bank. The proposed regulation would also provide that the terminating association would pay a portion of the FCB's estimated future share of non-Treasury-paid interest. The present value calculations would be made by the FAC.

8. Section 611.1260—Dissenters' Rights

Paragraph (c) of existing § 611.1260 requires a terminating institution to issue subordinated debt in the successor institution for the excess above par or stated value of a dissenting stockholder's stock or participation certificates. This paragraph is proposed to be amended to permit the successor institution to pay cash or a combination of cash and subordinated debt for the amount in excess of par or stated value. The terminating institution would continue to be required to pay cash in an amount up to the par or stated value. This change is intended to give the institution more flexibility in how it retires the interests of dissenting stockholders. In addition, the Board proposes to add new paragraph (g) to require that the interests of dissenting stockholders be retired on or before the termination date.

9. Section 611.1275—Termination of Large Associations

Proposed § 611.1275 contains additional requirements that would apply when a Large Association, as defined, proposes to terminate. Commenters were divided about whether there should be special provisions when association terminations would have a major impact on the remaining district institutions. Two commenters representing associations stated that there should be no special provisions because the borrowers would have voted to terminate and because the free market and competition should enable institutions to thrive and prosper. An FCB commented that a bank termination need not be delayed pending replacement of the bank; rather, interim financing should be arranged until a permanent replacement bank is selected. The FCCA commented that it is clearly appropriate to consider the effect of a termination on the remaining institutions, and stated that interim arrangements should be made to ensure continuing service to the affected territory.

The FCA, in its role as safety and soundness regulator of the System, is concerned about the effect of the termination of a Large Association on the financial health of the FCB and non-terminating associations in the Large Association's district and believes that an analysis of the viability of such remaining institutions must be undertaken as soon as possible in the termination process. The FCA would, therefore, in consultation with the FCSIC, prepare an analysis of the effect of the Large Association's termination on the viability of the district. Such analysis would take into account various factors, including how the cost of funds would be affected if a new institution were chartered to take over the territory of the terminating association rather than expanding the territory of an existing association, and the potential for achieving a reasonable market share in the territory. The FCA may contact other institutions in the same district and request additional information to be used in the analysis. This information would be required to be submitted to the FCA within 10 business days of the FCA's request in order to be considered in the FCA analysis, unless a longer period is permitted by the FCA.

B. Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

1. Section 611.1300—Applicability and Definitions

Proposed § 611.1300 would provide that subpart Q is applicable to the termination of Farm Credit Banks. It would also incorporate by reference the definitions in proposed § 611.1205 of subpart P except for the definition of "terminating institution."

2. Section 611.1310—Advance Notification

The advance notification procedures in proposed § 611.1310 are similar to the procedures for associations in proposed § 611.1210. An FCB seeking to terminate would be required to notify the FCA, the FCSIC, other System banks, the Funding Corporation, the FAC, and the bank's stockholders within 5 days of the adoption of a commencement resolution by the bank's board of directors. Affiliated associations are required to notify borrowers and prospective borrowers of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the 1971 Act and FCA regulations. The FCB would be required to submit an estimate of its exit fee to the FCA within 15 days after submission of the commencement resolution, and would also be required to commence negotiations with other Farm Credit banks on the satisfaction of obligations on which the bank is jointly and severally liable under section 4.4 of the 1971 Act.

3. Section 611.1311—Filing of Termination Application

This section would incorporate by reference § 611.1211 of subpart P of these proposed regulations.

4. Section 611.1312—Filing Date of Termination Application

This section would incorporate by reference paragraphs (a) and (b) of § 611.1212 of the proposed regulations. In addition, proposed paragraph (b) of this section would provide that, if the advance notification required in § 611.1310 is less than 90 days prior to the filing date that would otherwise be assigned to the termination application, the FCA would disapprove the application. During the 90-day period, the FCA will make arrangements for another bank to provide interim or permanent service in the territory of the terminating bank. Should such arrangements be made in less than 90 days, the FCA would have the discretion to reduce the 90-day period.

The FCA Board is proposing this 90-day period because it believes a sufficient time period to find a replacement bank for the district of the terminating bank is necessary to be able to assure the adequate flow of agricultural credit to the district. The FCA does not believe that this 90-day requirement would materially delay the termination process, because a corporate restructuring such as the kind of restructuring that would be proposed by a terminating bank is ordinarily a lengthy process.

5. Section 611.1313—Selection of Farm Credit Bank to Serve Territory

This section sets forth factors for the FCA to consider in deciding which remaining FCB or FCBs should be reassigned the territory of the terminating bank. The factors would include but not be limited to prospective efficiencies; the preferences of the associations in the district that do not seek to terminate; bank management; willingness of the bank to purchase all the loans to the associations; compatibility of organization and operations; potential market diversification; and geographical proximity.

6. Section 611.1315—Farm Credit Administration Review and Approval

This section would incorporate by reference § 611.1215 of the proposed regulations, which sets forth the time periods for FCA review and preliminary approval of the disclosure information in the termination application, as well as the conditions for final approval.

7. Section 611.1320—Voting Record Date and Stockholder Approval

This section would incorporate by reference the provisions of proposed § 611.1220, except that paragraph (c)(3) and the provisions regarding dissenting stockholders in paragraph (e) would not be applicable in a vote for bank termination.

8. Section 611.1325—Requirements for Information Statement

This section would incorporate by reference the provisions of § 611.1225 of the proposed regulations, except that paragraphs (h) and (s) would not be applicable. In addition, the section provides that other financing institutions (OFIs) have the right to have their FCB stock retired if they do not wish to become stockholders in the successor institution.

9. Section 611.1326—Prohibited Acts

This section would incorporate by reference § 611.1226 of the proposed regulations, which prohibits a terminating institution or persons affiliated with it from making false statements about the proposed plan of termination.

10. Section 611.1330—Plan of Termination

Proposed § 611.1330 would incorporate by reference the provisions of § 611.1230 of the proposed regulations.

11. Section 611.1335—Stockholder Reconsideration

This section would incorporate by reference § 611.1235 of the proposed regulations and would clarify that the reference to 15 percent of the eligible voting stockholders means, for a bank termination, associations holding 15 percent of the voting shares of the district.

12. Section 611.1340—Exit Fee

Paragraph (a) of this section would provide that, for an FCB terminating alone, the assets and capital that are expected to be paid out or distributed to the institutions remaining in the System would be deducted from the assets and capital of the bank before the exit fee is computed. If, in connection with the termination, loans or other assets with reserves are paid back to the terminating bank at above the net book value, the amount of the excess will be added to the surplus of the FCB. This would include direct loans to non-terminating associations that repay such loans on or prior to termination. Once such amounts are deducted, the computation set forth in proposed § 611.1240 would be utilized.

Paragraph (b) of this section would provide that, when one or more associations in a district are terminating along with the FCB, the computation would be made as follows. First, the exit fee of each terminating association would be computed in accordance with proposed § 611.1240. Then the balance sheet of the FCB, less the assets and capital of the non-terminating institutions, and the balance sheets of the terminating associations would be combined under GAAP, using cross-elimination methods, and the exit fee of the combined entity would be computed in accordance with proposed § 611.1240. The exit fees of the terminating associations would be deducted from the exit fee of the combined entity, and the FCB would be responsible for paying the remainder.

Paragraph (c) would provide that an OFI would have the same right as an association to have its investment in the FCB retired before the bank terminates, and the investment of any OFIs choosing to have their stock retired would be deducted from the capital and assets of the bank before the exit fee is computed. If an OFI chooses instead to become a stockholder in the successor institution, the OFI's investment in the FCB would be considered part of the FCB's capital in computing the exit fee.

13. Section 611.1350—Repayment of Obligations

Proposed § 611.1350 would contain provisions for treatment of obligations of the FCB. Paragraph (a) would provide that certain obligations must be repaid, or provisions for repayment must be made, prior to termination; other obligations would be assumed by the successor institution. Paragraph (b) would require the terminating bank to provide for satisfaction of the portion of issues of consolidated or Systemwide obligations on which it is primarily liable prior to termination. It is the Board's view that the 1971 Act does not authorize the successor institution to use Systemwide obligations as a source of funding. However, most of the outstanding Systemwide obligations are not callable. Therefore, the proposed regulation sets forth three methods by which a terminating bank may satisfy the obligations. First, the bank may enter into an agreement with one or more remaining System banks under which such banks would assume primary liability. Second, the terminating bank may purchase, in the open market, obligations in the amount of the portion of an issue for which the bank is primarily liable. Such obligations would be canceled by the Funding Corporation. Third, the terminating bank may deposit funds into a trust account that will be sufficient to pay the interest and principal on the obligations when payment is due.

An issue that arises only in the context of a bank termination is how the terminating bank can provide for satisfaction of its off-balance-sheet joint and several liability to investors in Systemwide bonds and consolidated notes and bonds outstanding on the termination date, and its liability for interest payments on the individual obligations issued by banks operating under the same title of the 1971 Act and outstanding on the termination date. Comments on this issue were sought in the ANPRM, and the FCA received comments from four respondents, including the FCCA. Although one commenter stated that it was unclear what more could be required after a bank had paid the debt on which it was primarily liable, the other commenters offered a number of thoughtful suggestions regarding how to provide for continuing contingent obligations to bondholders in an orderly way. The suggestions included: (1) Requiring the terminating bank to enter into an indemnification contract with remaining banks that would be in effect until obligations outstanding at the termination date are retired, or the decrease in the System's spreading of risk has been regained, or such other time as the FCA may fix; (2) requiring no specific arrangement at the time of termination, but refunding any exit fee payment to the extent that contingent or unexpected liabilities occur or the successor is otherwise required to make unforeseen payments; and (3) leaving the matter to the banks to resolve, subject to FCA approval.

The Board believes that it is important to have an arrangement in place prior to the termination date specifying the procedure by which the joint and several liabilities of the terminating bank will be addressed by the successor institution. Although the existence of the Insurance Fund significantly decreases the likelihood that any bank would ever in the future be called upon to satisfy another bank's primary obligations, there continues to be a possibility that a call would be made. It is the Board's view that flexibility should be given to the banks to work out an acceptable procedure, provided that such flexibility does not result in the remaining banks' being able to impede the termination.

Therefore, paragraphs (c) and (d) of the proposed regulations would require that, immediately following the notification to the remaining banks of the terminating bank's intention to terminate, the banks must enter into negotiations over the satisfaction of the terminating bank's joint and several liability on the outstanding consolidated and Systemwide obligations. However, should the banks be unable to reach an agreement or the agreement is not acceptable to the FCA, the FCA would specify the terms of the agreement according to a formula set forth in the proposed regulations. The formula would provide for the release of the terminating institution from the joint and several liability over time as notes and bonds mature and are paid. The terminating institution would commit itself to payments if a default occurred and the Insurance Fund were exhausted. The FCA would review such an arrangement as part of the overall review and approval process.

The formula for determining future payments would be based on the following:

(1) Calculations would be made to determine the percentage of the total consolidated and Systemwide debt of the System banks held by the terminating bank. This percentage would be used to determine the liability of the successor institution on the termination date.

(2) The computation date for this formula would be chosen by the FCA, but would be on or before the computation date set forth in proposed § 611.1240(c). The date would be chosen to reflect the typical debt relationship of the terminating bank to the System as a whole prior to the retirement of any bonds made in connection with or in anticipation of termination.

(3) This percentage would remain constant but would be applied only to debt outstanding on the termination date. Therefore, the total debt amount would decrease as issues mature and are paid off.

(4) On the termination date, the debt issued and outstanding for which the terminating bank is jointly and severally liable would be identified.

Paragraph (e) of the proposed regulations would clarify that, notwithstanding any agreement among the banks to establish how calls would be made by the FCA on defaulted obligations, the terminating bank would remain liable under section 4.4 of the 1971 Act for all of the issues outstanding on the termination date until such issues have been repaid.

As discussed above, the 1992 Act requires a terminating FCB to pay to the FAC the estimated present value of its share of certain future repayments to the FAC for obligations undertaken by the FAC in connection with the Capital Preservation Agreements, operating expenses of the FAC and the Assistance Board, and the Treasury-paid interest. These requirements are set forth in proposed paragraph (f). The Board also proposes that the terminating bank pay the estimated present value of its share of future payments of interest on the Capital Preservation Agreements and the interest on FAC debt not paid by the Treasury. The Board believes that such provisions are needed to meet the objectives of the 1992 Act to ensure that terminating institutions do not escape their liability for repayment of assistance to the System. The proposed regulation would provide that, as soon as the FAC is notified that an FCB is seeking to terminate pursuant to proposed § 611.1310, it must prepare an estimate of the present value of the terminating bank's share of the FAC repayment.

14. Section 611.1355—Retirement of Equities

System institutions are not authorized under the 1971 Act to hold equity investments in entities that are not part of the System. Therefore, paragraph (a) of proposed § 611.1355 would require an FCB to retire equities held by System institutions that do not seek to terminate along with the FCB.

The proposed regulation further provides that, if an FCB has an allowance for loan losses against a direct loan or loans serviced by an FLBA and such loans will be refinanced at above net book value by another Farm Credit institution, the amount of the allowance would be considered as part of the unallocated surplus of the FCB for purposes of computing the value of the FCB stock. The Board notes that it may be appropriate to include the amount of the allowance in the value of the stock because, if the direct loan or loans through the FLBA are refinanced, the allowance would be eliminated. The Board specifically seeks comment on this part of the computation.

Paragraph (b) would require the retirement of any preferred stock issued by the terminating bank. Paragraph (c) would provide an option to OFIs to have their stock retired if the OFIs choose not to be equity holders in the successor institution. The stock of the OFIs would be retired on the same basis as the stock held by Farm Credit associations.

15. Section 611.1366—Loan Refinancing by Borrowers

This section would be applicable to borrowers from the FCB other than System institutions and would incorporate by reference § 611.1266 of the proposed regulations. Non-System institution borrowers would include OFIs and eligible borrowers whose loans were made through FLBAs acting as agents for the FCB.

16. Section 611.1375—Farm Credit Administration Evaluation

This section would require the FCA to evaluate the effect of termination on the viability of the remaining institutions in the System whenever assets of the terminating applicant(s) exceed 10 percent of the assets of the Farm Credit System. Farm Credit banks and other institutions remaining in the System would be permitted, at their option, to submit their own evaluation of the effect of termination of another bank or banks.

C. Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

1. Section 611.1400—Scope of Subpart

This section would provide that proposed subpart R applies to the termination of BCs.

2. Section 611.1405—Provisions Applicable to Terminating Banks for Cooperatives

Equity holders in a BC, in contrast to equity holders in an FCB, are primarily borrowers that are not other Farm Credit institutions. This means that the concerns that arise are similar or, in many cases, identical to those that arise when an association seeks to terminate. Consequently, most of the provisions of subpart P are applicable to the termination of a BC. Therefore, proposed § 611.1400 would incorporate by reference the provisions in proposed subpart P with certain exceptions. Those exceptions would be provisions pertaining to the search for a replacement bank (§ 611.1212(c)); the retirement of FCB stock (§ 611.1255); borrower rights (§ 611.1270); and viability issues in the context of a Large Association termination (§ 611.1275). Borrower rights provisions in the 1971 Act and regulations do not apply to loans made by a BC because BCs do not fall within the definition of "qualified lender" in section 4.14A(a)(6) of the 1971 Act.

In addition, this section would incorporate by reference certain provisions from proposed subpart Q of part 611 pertaining to notification of the Funding Corporation and other banks of a BC's intention to terminate (§ 611.1310); the requirement that the terminating bank agree with the other banks on a procedure for the successor institution to provide for satisfaction of joint and several liability (§ 611.1350); provisions for Systemwide repayment of FAC assistance (§ 611.1350); retirement of stock, if any, held by other Farm Credit institutions (§ 611.1355); and evaluation of the effect of the termination of one or more institutions whose assets exceed 10 percent of the assets of the System (§ 611.1375).

List of Subjects in 12 CFR Part 611

Agriculture, Banks, banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, part 611 of chapter VI, title 12 of the Code of Federal Regulations is proposed to be amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for part 611 continues to read as follows:

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.9, 5.10, 5.17, 7.0–7.13, 8.5(e)of the Farm Credit Act; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203, 2243, 2244, 2252, 2279a-2279f-1, 2279aa-5(e); secs. 411 and 412 of Pub. L. 100–233; 101 Stat. 1568, 1638; secs. 409 and 414 of Pub. L. 100–399, 102 Stat. 989, 1003 and 1004.

2. Part 611 is amended by revising subpart P to read as follows:

Subpart P—Termination of Farm Credit Status—Associations

Sec.

Subpart P—Termination of Farm Credit Status—Associations

§ 611.1200 General—Applicability.

(a) Each institution is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) These regulations are applicable to an association that seeks to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution under other Federal or State law. In the event that a receiver or conservator is appointed by the Farm Credit Administration in the case of a voluntary or involuntary liquidation of the institution the provisions of subpart L of this part apply, and the provisions of this subpart shall not apply.

§ 611.1205 Definitions.

For the purposes of this subpart, the following definitions shall apply:

(a) *Commencement resolution* means the resolution adopted pursuant to § 611.1210(a) to indicate the commencement of the termination process.

(b) *GAAP* means generally accepted accounting principles, which is that body of conventions, rules and procedures necessary to define accepted accounting practice at a particular time, as promulgated by the Financial Accounting Standards Board and other authoritative sources recognized as setting standards for the accounting profession in the United States. GAAP shall include not only broad guidelines of general application but also detailed practices and procedures that constitute standards against which financial presentations are evaluated.

(c) *Large Association* means:

(1) An association whose investment in its affiliated Farm Credit Bank is in excess of 25 percent of the Farm Credit Bank's capital as computed according to GAAP or whose direct loan from the Farm Credit Bank is in excess of 25 percent of the total amount of direct loans of the bank; or

(2) Two or more associations with the same affiliated Farm Credit Bank that seek to terminate within the same 6-month period and whose aggregate investments in the Farm Credit Bank or direct loans from the Farm Credit Bank are in excess of 25 percent of the total capital or direct loans of the Farm Credit Bank.

(d) *Viability* means the ability to sustain or commence profitable operations exclusive of non-recurring items.

(e) *OFI* means other financing institution, as that term is defined in § 614.4540(e) of this chapter.

(f) *Reconsideration vote* means the vote at which the voting stockholders reconsider whether to terminate the terminating institution's Farm Credit status.

(g) *Successor institution* means the institution to which the terminating institution will convert when its Farm Credit charter is revoked.

(h) *Terminating institution* means an association seeking to terminate its status as a Farm Credit institution and to become chartered as a bank, savings and loan association, or other type of financial institution.

(i) *Termination resolution* means the resolution adopted pursuant to § 611.1211(a) approving the applications for termination and a new charter and providing for submission of the termination proposal to a stockholder vote.

(j) *Termination vote* means the stockholder vote at which the termination proposal is first submitted to the voting stockholders for their approval or disapproval.

§ 611.1210 Advance notification.

(a) An institution's board of directors shall commence the process of termination by adopting a commencement resolution indicating the institution's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating institution shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the institution which states that the board is taking steps to terminate its Farm Credit status and which describes the process of termination, the anticipated effect of termination on current holders of equity, including the effect on specific borrower rights, and the type of institution the successor institution will be. If bylaws are adopted in accordance with paragraph (e) of this section, the announcement shall also state that, during the time period from the passage of the commencement resolution until the effective date of termination, new common stock and participation certificates either purchased from the association in connection with a loan or retired by the association prior to the termination will not entitle the holder to receive a share in the adjusted book value in excess of par of the institution.

(c)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating institution shall submit to the Farm Credit Administration a statement of its estimate of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1240. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating institution's estimated exit fee, the Farm Credit Administration shall either confirm the institution's estimate of the exit fee or notify the institution of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (c)(2) of this section, the terminating institution may request reconsideration of any revisions. Such request shall be in writing and shall set forth specific reasons why the revisions should not be made. The Farm Credit Administration shall reconsider the revisions and shall inform the terminating institution of its determination within 15 days of the receipt of the reconsideration request.

(d) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the terminating institution's conduct of business:

(1) Each prospective new borrower shall be informed of the effect of the proposed termination upon the borrower's loan and stock and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any common stockholders or participation certificate holders who seek to have such equity interest retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution if the termination is completed or to dissent from the termination and receive an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, of the holder's equity in the terminating institution.

(e) Notwithstanding any provisions of § 615.5230(b) of this chapter to the contrary, an institution may adopt bylaws which provide for the issuance of a special class of common stock and participation certificates in connection with loans granted during the time period subsequent to the adoption of the commencement resolution and prior to the termination. Such common stock or participation certificates, which shall be issued in accordance with section 4.3A of the Act, shall have characteristics identical to shares of the existing classes of common stock or participation certificates issued as a condition of the extension of a loan, except for the following:

(1) In the event of termination, the holder shall be entitled to receive the following:

(i) If the holder is eligible to vote and does not vote against the termination, an interest in the successor institution in an amount equal to the adjusted book value, as determined pursuant to § 611.1260 of this subpart, or the purchase price of the stock, whichever is less;

(ii) If the holder is not eligible to vote or is eligible to vote and votes against the termination, either an interest in the successor institution as set forth in paragraph (e)(1)(i) of this section, or, if such holder dissents pursuant to § 611.1260, cash in the amount of the purchase price or the adjusted book value of the stock or participation certificate, whichever is less.

(2) In the event that the termination does not occur, the special classes of stock or participation certificates shall automatically convert into shares of the otherwise identical classes of stock or participation certificates issued prior to the adoption of the commencement resolution.

§ 611.1211 Filing of termination application.

(a) The board of directors of an institution that seeks to terminate its Farm Credit status shall adopt an appropriate termination resolution approving an application for such termination, approving an application for a new charter for the successor institution, and providing for the submission of such termination proposal to its stockholders for a vote.

(b) An original and three copies of a termination application consisting of the following materials shall be submitted by the terminating institution to the Farm Credit Administration for review and preliminary approval:

(1) A certified copy of the termination resolution adopted pursuant to paragraph (a) of this section;

(2) A copy of the plan of termination as required under § 611.1230;

(3) An information statement that complies with the requirements of § 611.1225;

(4) All other information that is to be submitted to the stockholders and other equity holders in connection with the contemplated action; and

(5) Any additional information the board of directors wishes to submit to the Farm Credit Administration in support of the request or that the Farm Credit Administration requires.

(c) The terminating institution shall provide the Farm Credit Administration with any material revisions to information in the plan of termination, including updated financial information, that becomes available during the pendency of the termination application and prior to termination.

§ 611.1212 Filing date of termination application.

(a) Except as provided in paragraph (c) of this section, the termination application shall be given a filing date which shall be the date on which it is determined to be technically complete. Within 10 business days after the Farm Credit Administration receives the termination application, the Farm Credit Administration shall determine that the application is technically complete and give it a filing date, or return the application to the terminating institution if it is incomplete. If the Farm Credit Administration fails to make a determination or fails to return the application before the end of the 10-day review period, the application shall be deemed to be technically complete and shall receive a filing date which shall be the last day of the 10-day review period.

(b) A termination application is considered to be technically complete when it is determined upon preliminary review to contain responses to all items required to be submitted to the Farm Credit Administration under § 611.1211.

(c) In the event that the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section is less than 60 days following the date on which the Farm Credit Administration received the advance notification required in § 611.1210, the application shall be disapproved by the Farm Credit Administration. However, the Farm Credit Administration may in its sole discretion reduce the required 60-day period in the event that a new Farm Credit service provider to serve the territory is determined. This paragraph shall not apply if the entire territory of the institution is already included in the charter of one or more associations that are chartered to offer credit services of the same type as the terminating institution.

(d) After the Farm Credit Administration has received the advance notification pursuant to § 611.1210, it shall contact other Farm Credit institutions to determine their willingness to provide service to the territory of the terminating institution or to determine if there are persons who wish to charter a new institution to serve the territory. The inability of the Farm Credit Administration to arrange for a new service provider for the territory during the 60 days after receipt of the advance notification shall not be a ground for disapproving the termination application.

§ 611.1215 Farm Credit Administration review and approval.

(a) When the termination application has received a filing date, the Farm Credit Administration shall review the application and either disapprove or give its preliminary approval pursuant to section 7.11(a)(2) of the Act.

(b) The Farm Credit Administration Board shall have 60 days from the filing date, as defined in § 611.1212, to approve or disapprove the termination application. If the Farm Credit Administration Board does not act within such 60-day period, the plan of termination may be submitted to the stockholders pursuant to section 7.11(a)(2) of the Act.

(c) If the application is disapproved, written notice specifying the reasons for disapproval shall be transmitted to the chief executive officer of the institution, who shall promptly notify the institution's board of directors. If the application is disapproved, it shall not be submitted to the stockholders for a vote.

(d) Upon stockholder approval of the proposed termination as provided in § 611.1220, the secretary of the terminating institution shall forward to the Farm Credit Administration a certified record of the results of the stockholder vote and shall notify its stockholders and other equity holders of the results of the vote as provided in § 611.1220(e).

(e) Final approval by the Farm Credit Administration Board pursuant to section 7.10(a)(2) shall be conditioned upon the following:

(1) A termination vote in favor of termination and, if a reconsideration vote is held, a reconsideration vote in favor of termination;

(2) Receipt by the Farm Credit Administration of conformed executed copies of all contracts and agreements submitted pursuant to § 611.1230;

(3) Satisfactory evidence of the terminating institution's adequate provision for payment of debts and retirement of equities;

(4) Evidence of the grant of a new charter for the successor institution by the appropriate Federal or State chartering authority;

(5) Receipt by the Farm Credit Insurance Fund of the exit fee; and

(6) The fulfillment of any other condition of termination imposed by the Farm Credit Administration Board that is necessary and appropriate to provide for the equitable treatment of the parties affected by the termination.

(f) If the Farm Credit Administration grants final approval, the terminating institution's charter shall be revoked, and the termination shall be effective on the last to occur of—

(1) Satisfaction of all conditions listed in paragraph (e) of this section;

(2) The proposed termination date of the terminating institution;

(3) Ninety (90) days after receipt by the Farm Credit Administration of the notice required to be submitted pursuant to paragraph (d) of this section; and

(4) Fifteen (15) days after a reconsideration vote, if such vote is held.

§ 611.1220 Voting record date and stockholder approval.

(a) Upon receipt of preliminary approval of the termination application by the Farm Credit Administration Board, or if the Board takes no action prior to the end of the 60-day period set forth in § 611.1215(b), the terminating institution shall call a meeting of its voting stockholders. The stockholder meeting shall be held within 60 days of receipt of the preliminary approval or, if the Board takes no action, within 60 days of the last day of the 60-day period. All holders of equity in the terminating institution shall be permitted to attend the meeting. The stockholders eligible to vote shall be the stockholders who are eligible to vote on the voting record date as determined by the institution's bylaws if such date is not more than 70 days prior to the stockholder vote, or on a date fixed by the board of directors which shall be not more than 70 days prior to the date of the stockholder vote.

(b) The notice of meeting to consider and act upon the board of directors' resolutions shall be accompanied by an information statement that complies with the requirements of § 611.1225.

(c)(1) The terminating institution shall establish voting security procedures that comply with the procedures for the election of directors in § 611.330, as applicable. Specifically, the terminating institution shall ensure that all information regarding how or whether individual stockholders have voted and all materials such as ballots, proxy ballots, election records, and other relevant documentation related to the votes of stockholders is held in strict confidence.

(2) The terminating institution may adopt procedures that require the stockholders to sign or otherwise verify their eligibility to vote on an envelope which contains a marked ballot in a

sealed envelope. The terminating institution may also use signed proxies or eligibility certificates that will accompany a ballot or instructions on how to vote the proxy in a separate sealed envelope.

(3) The terminating institution shall use a form of identity code on the ballot enabling it to determine which stockholders are eligible to exercise dissenters' rights and shall require that the votes be tabulated by an independent party who is not a stockholder, director, or officer of the terminating institution or the successor institution. When the terminating institution receives notification pursuant to § 611.1260 that a stockholder intends to exercise dissenters' rights, the institution shall verify with the independent party that the stockholder voted against the termination. The terminating institution shall be informed of the vote of a stockholder only in the event that the stockholder exercises the right to retire stock in the institution in accordance with § 611.1260.

(d) The proposal shall be approved by the stockholders if agreed to by a majority of the eligible voting stockholders of the institution voting in person or by proxy at the stockholders' meeting.

(e) Upon approval of a proposed termination by the stockholders of the terminating institution, a certified statement showing the results of the stockholder vote shall be forwarded to the Farm Credit Administration within 10 days following the stockholders' meeting. The terminating institution shall notify its stockholders and other holders of equity interests of the results of the vote not later than 30 days after the final vote. If the stockholder vote is in favor of termination, stockholders who voted against the termination and other equity holders shall be informed of their right to dissent as provided in § 611.1260(f). In addition, the terminating institution shall further notify stockholders of their right to file a petition for reconsideration in accordance with § 611.1235 and that any petition for reconsideration must be filed on or before a date certain, which shall be 35 days after the date the terminating institution mails notice to the stockholders of the results of the stockholder vote.

§ 611.1225 Requirements for information statement.

Notice of the meeting to consider and act upon a proposed termination shall be sent to all stockholders and other holders of equity interests and shall be accompanied by an information statement that contains the information and materials set forth in this regulation as follows:

(a) A statement on either the first page of the material or the notice of the stockholders' meeting, in capital letters and boldface type that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON

(b) A paragraph on the first page of the material entitled "Executive Summary" and containing a concise description of the material changes in rights of the borrowers, stockholders, and holders of other equity interests to occur as a result of the termination, the effect of such changes, and the potential benefits and disadvantages to them of the termination.

(c) A description of the plan of termination as required in § 611.1230.

(d) A discussion by the board of directors of the terminating institution of the potential benefits and disadvantages of the termination together with the basis for the board's recommendation for termination.

(e) A list of the initial board of directors and senior officers of the successor institution, together with a brief description of the business experience of each such person, including principal occupation and employment, during the past 5 years.

(f) A summary of the provisions of the organizational documents of the successor institution, including the articles of incorporation and bylaws, that differ materially from the charter and bylaws of the terminating institution. The summary shall indicate both whether the maintenance of a borrowing relationship with the successor institution will be required as a condition for maintaining a stockholder's interest, and whether the maintenance of a stockholder's interest will be required as a condition for maintaining a borrowing relationship.

(g) An explanation of any changes in the nature of the stockholders' and other equity holders' investment in the institution, including but not limited to any changes in dividends, patronage refunds, voting rights, preferences, retirement of equities, and priority upon liquidation. If any eligible borrower stock is outstanding, such explanation shall include a statement that the protection afforded to eligible borrower stock by section 4.9A of the Act shall be extinguished at termination and that any stock of the successor institution received in exchange for eligible borrower stock shall not be protected under section 4.9A of the Act.

(h) An explanation of the effect of termination on the rights that borrowers are granted under the Act; the expiration date of those rights, if applicable, under the provisions of the plan of termination; a statement that borrowers may seek to have their loans sold to or refinanced with another lending institution, including the Farm Credit institution(s) that will be chartered to serve the terminating institution's territory or any other institutions that already serve the territory, provided that any such Farm Credit institution is authorized to make such a loan in accordance with part 614 of this chapter; and an explanation of the procedure for a borrower to apply for the sale or refinancing of his loan to the institution(s) that will be chartered to serve the terminating institution's territory, if such designations have been made. The disclosure shall include the name, address and telephone number of such institution(s), together with a statement that any such institution is not obligated to accept any loans of the terminating institution.

(i) An explanation of the formula and process by which equity of the terminating institution will be exchanged for equity in the successor institution or other consideration.

(j) A description of any agreement or arrangement with any person, including any officers or directors of the terminating institution, relating to employment or termination of employment with the terminating institution or employment with the successor institution.

(k) An explanation of the computation of the exit fee and the estimated amount of the exit fee.

(l) A statement identifying the State or Federal authority that will charter the successor institution and detailing the nature and type of financial institution that the successor institution will become after termination, as well as the conditions of approval, if any, placed on the successor institution by such State or Federal authority.

(m) A summary of the differences, if any, between the terminating institution and the successor institution with respect to interest rates, interest rate policies, collection policies, services provided, service fees, and any other item of interest that would affect a borrower's lending relationship with the successor institution, including any restrictions on stockholders in their ability to borrow from the successor institution.

(n) A discussion of the expected capital requirements of the successor institution, and the amount and method of capitalization for the successor institution.

(o) An explanation of the sources and manner of funding the operations of the successor institution.

(p) An explanation of the existence of any continuing contingent liability and the manner in which this liability will be addressed by the successor institution.

(q) A summary of the differences in tax status of the terminating institution and the successor institution, and an explanation of the effect of such changes on both the successor institution and the stockholders.

(r) A brief description of the regulatory environment for the successor institution and a summary of the differences from the current regulatory environment that affect the cost of doing business or the value of equity and that are not addressed elsewhere in the information statement.

(s) A statement describing those stockholders and other holders of equity that are entitled to dissenters' rights and an explanation of those rights as set forth in § 611.1260, including the estimated value of the stock upon distribution, procedures for the exercise of dissenters' rights and the time period during which such rights may be exercised, and a statement that eligible voting stockholders who do not vote against the termination will not receive dissenters' rights.

(t)(1) A presentation of the following financial data:

(i) A balance sheet and income statement for the terminating institution for each of the 2 preceding fiscal years;

(ii) A balance sheet for the terminating institution as of a date within 90 days of the date the termination application is forwarded to the Farm Credit Administration, presented on a comparative basis with the corresponding period of the prior fiscal year;

(iii) An income statement for the interim period between the end of the last fiscal year and the date of the required balance sheet presented on a comparative basis with the corresponding period of the prior fiscal year;

(iv) A pro forma balance sheet of the successor institution presented as if termination had occurred as of the date of the most current balance sheet presented in the statement; and

(v) A pro forma summary of earnings for the successor institution presented as if the termination had been effective at the beginning of the interim period between the end of the last fiscal year and the date of the balance sheet presented pursuant to paragraph (t)(1)(iv) of this section.

(2) The format for the balance sheet and income statement shall be the same as is contained in the institution's annual report to stockholders and shall contain appropriate footnote disclosures, including data relating to nonperforming loans and related assets and allowance for losses.

(3) The financial statements shall include either of the following:

(i) A statement signed by the chief executive officer and each member of the board of directors of the terminating institution that the various financial statements are unaudited, but have been prepared in all material respects in accordance with GAAP (except as otherwise disclosed therein) and are, to the best of each signer's knowledge, a fair and accurate presentation of the financial condition of the institution; or

(ii) A signed opinion by an independent certified public accountant that the various financial statements have been examined in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and other such auditing procedures as were considered necessary in the circumstances, and, as of the date of the statements, present fairly the financial position of the terminating institution in accordance with GAAP applied on a consistent basis, except as otherwise disclosed therein.

(u) A description of any event subsequent to the date of the financial statements, but prior to the date upon which the termination application is submitted to the Farm Credit Administration, that would have a material impact on the financial condition of the terminating institution or the successor institution.

(v) A description of any event subsequent to the submission of the termination application to the Farm Credit Administration that would have a material impact on any information in the termination application.

(w) A statement of any other material fact or circumstance that a stockholder would need in order to make an informed decision on the proposed plan of termination, or that is necessary to make the required disclosures not misleading.

(x) A proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholder.

(y) A certification signed by each member of the board of directors of the terminating institution stating that the director has reviewed the entire information statement and that, to the best of his or her knowledge, the information contained therein is truthful, accurate and complete. If any director refuses to sign the certification, the director shall inform the Farm Credit Administration of the reasons for such refusal.

§ 611.1226 Prohibited acts.

(a) No terminating institution or director, officer, employee or agent thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact concerning the proposed plan of termination to a stockholder of the institution.

(b) No director, officer, employee, or agent of a terminating institution shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of an institution's plan of termination constitutes, directly or indirectly, either a recommendation on the merits of the proposal or an assurance concerning the adequacy or accuracy of any information provided to the institution's stockholders and other equity holders in connection therewith.

§ 611.1230 Plan of termination.

The plan of termination shall include the following information:

(a) Copies of all contracts, agreements and other documents pertaining to the proposed termination and organization of the successor institution.

(b) A statement of the means by which the assets of the terminating institution will be transferred to, and its liabilities assumed by, the successor institution.

(c) The terminating institution's plan to retire, and the successor institution's plan to issue, equities held by holders of stock, participation certificates, and allocated equities, if any.

(d) A copy of the charter application filed with the appropriate Federal or State chartering authority, together with any exhibits or other supporting information that is submitted to such authority.

(e) A statement whether the successor institution will continue to have a credit relationship with a Farm Credit bank or other Farm Credit institution and the effect such status will have on the provision for payment of the terminating institution's debts. The plan of termination shall include evidence of the agreement and plan for satisfaction of outstanding debts, whether contained in a general financing agreement or otherwise.

(f) The proposed effective date of the termination.

§611.1235 Stockholder reconsideration.

(a) Eligible voting stockholders have the right to reconsider the approval of the termination provided that—

(1) A petition signed by at least 15 percent of the eligible voting stockholders of the institution is filed with the institution, and a copy of such petition is filed with the Farm Credit Administration, within 35 days after the date of mailing of the notification of the final results of the stockholder vote required under § 611.1215; and

(2) Such petition is certified by the terminating institution as provided in paragraph (b) of this section.

(b) Each petition shall include the signature, printed name and full address of each voting stockholder signing the petition. Within 5 days of its receipt of a timely filed stockholder petition, the institution shall certify whether the signatures on the petition are the signatures of persons who were eligible voting stockholders of the terminating institution on the voting record date, and the institution shall notify the Farm Credit Administration of such certification.

(c) The petition shall include the name and address of a person who shall serve as petitioners' representative and who shall represent the interests of the petitioners in the reconsideration vote process.

(d) If the terminating institution certifies that at least 15 percent of eligible voting stockholders have signed the petition, a special stockholders' meeting shall be called by the institution to vote on the reconsideration. Such meeting shall be held within 60 days after the date on which the stockholders were notified of the final result of the termination vote. If a majority of stockholders of the institution voting in person or by written proxy vote against the termination, the termination is not approved. If a majority of stockholders of the institution voting in person or by written proxy vote in favor of the termination, the termination shall be effective pursuant to the provisions of § 611.1215(f), but not earlier than 15 days after the reconsideration vote.

(e) The petitioners, through the petitioners' representative, and board of directors of the terminating institution shall each have the opportunity to present to the stockholders and other equity holders a written statement of their views regarding the reasons for calling a reconsideration vote. Such statements shall be reasonable in length and shall be mailed to stockholders and other equity holders along with the notice of stockholders' meeting for the reconsideration vote.

(f) The terminating institution shall, at its expense, immediately provide the stockholders initiating the petition with a list of the names and addresses of all of the eligible voting stockholders of the institution. All other expenses for the petition shall be borne by the petitioners. Reasonable expenses for the reconsideration vote shall be borne by the terminating institution.

§611.1240 Exit fee.

(a) For the purposes of this section, the following definitions apply:

(1) *Assets* means all assets less appropriate valuation reserves as determined in accordance with GAAP except where otherwise noted in this section.

(2) *Contingent liabilities* means those liabilities that, in accordance with GAAP, will materialize if certain events occur.

(3) *Total capital* means all capital stock, surplus and undivided profits accounts as determined in accordance with GAAP, except where otherwise noted, and as adjusted pursuant to the requirements of this section.

(b) A terminating institution shall pay an exit fee equal to the amount by which the total capital of the institution exceeds 6 percent of its assets. The exit fee shall be paid to the Farm Credit Insurance Fund.

(c) The computation date for the exit fee shall be the quarter end preceding the filing date. A certified audit of the terminating institution shall be performed by a qualified public accountant, as defined in § 621.2(a)(21) of this chapter, as of the computation date. The Farm Credit Administration may, in its discretion, waive this requirement if such an audit was performed as of a date within the 6 months preceding the computation date.

(d) The method of computation shall be as follows:

(1) The average daily balance of assets and total capital for the 12 months preceding the computation date will be computed as a basis for determining the exit fee; and

(2) Account balances shall be computed in accordance with GAAP and adjusted in accordance with paragraph (e) of this section.

(e) For purposes of determining the amount of the exit fee, the Farm Credit Administration shall review the terminating institution's transactions over a 3-year period prior to the date of the adoption of the termination resolution. If this review indicates that the terminating institution's account balances do not accurately reflect the terminating institution's value of its assets and liabilities, the Farm Credit Administration may prescribe an accounting principle that is no less stringent than GAAP if the application of GAAP results in financial statements that are not consistent with the Farm Credit Administration's objective of ensuring that the exit fee is calculated on a fair and reasonable basis. In addition, if the review indicates a difference in value from the stated values, or if the institution has retired capital outside the ordinary course of business, or that the institution has taken any other actions unrelated to its core business that have the effect of increasing or decreasing the amount of the exit fee, the Farm Credit Administration may make adjustments to the institution's assets, liabilities, or capital and recompute the exit fee based on these adjustments. The review by the Farm Credit Administration shall include, but not be limited to:

(1) Additions to or subtractions from the allowance for loan losses;

(2) Additions to assets or subtractions from liabilities from transactions that are outside the terminating institution's ordinary course of business;

(3) Dividends or patronage refunds exceeding the terminating institution's usual dividends or patronage refunds;

(4) Changes in the terminating institution's capitalization plan or implementation of that plan that increased or decreased the level of borrower investment;

(5) Contingent liabilities, such as loss-sharing obligations, that can be reasonably quantified; and

(6) Assets that may be overvalued, undervalued or not recorded on the books of the institution.

(f) Capital of the terminating institution owned by another Farm Credit institution or by the Financial Assistance Corporation shall not be included in capital for the purpose of determining the exit fee.

(g) In the event that GAAP requires that a liability be recorded on the balance sheet that will be offset by an unrecorded asset, the transaction recording the liability shall be reversed.

(h) In the event that the terminating institution has recorded expenses, other than tax expenses and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, that would not have been recorded but for the termination, such transactions shall be reversed.

(i) If, subsequent to the computation date and prior to the termination date, the terminating institution records income tax expenses due to the decision to terminate and expenses due to satisfaction of obligations issued by the Financial Assistance Corporation, the

amount of these expenses shall be deducted from the exit fee.

(j) The exit fee shall be paid by certified check or other means agreed upon by the Farm Credit Administration and the terminating institution.

§ 611.1250 Repayment of debts.

(a) The terminating institution shall provide for the payment or assumption by the successor institution of all outstanding debt obligations.

(b) The terminating institution may establish and maintain an OFI relationship with the Farm Credit Bank, subject to all applicable requirements of part 614, subpart P, of this chapter. The general financing agreement establishing the OFI relationship shall provide for the assumption by the successor institution of any direct loan or other obligation that a production credit association is authorized to incur and that is not repaid at the time of termination. Any part of the direct loan or other obligation that is not linked to a loan covered by the general financing agreement shall be repaid as provided in paragraph (c) of this section.

(c) A terminating institution that will not become an OFI shall either repay its direct loan and any other obligations to the Farm Credit Bank upon termination or shall arrange with the Farm Credit Bank to repay the loan or obligation. The terminating institution may, with the concurrence of the Farm Credit Bank, repay the loan or obligation over a period not to exceed 3 years following termination.

(d) The terminating institution shall pay or make satisfactory provision for payment of obligations to any other Farm Credit institutions under any loss-sharing agreement or other agreement.

(e)(1) The terminating institution shall pay to its district Farm Credit Bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the terminating institution remained in the System, of the estimated present value of:

(i) All future assessments against the bank as required by paragraphs (c)(2)(C), (c)(4), and (c)(5)(F) of section 6.24 of the Act; and

(ii) The future payment obligation of its district bank as required by section 6.26(d)(1)(C)(v) of the Act.

(2) Calculations required by paragraph (e)(1) of this section shall be made by the Financial Assistance Corporation and shall be based on the retail loan volume as of the quarter end preceding the submission of the termination application.

§ 611.1255 Retirement of equities owned.

(a) The Farm Credit Bank may retire all equities of the Farm Credit Bank that are owned by the terminating institution on the termination date or may enter into an agreement with the terminating institution that would provide for a phased retirement of the equities. Any such plan for phased retirement shall provide for such retirement to be completed by the earlier to occur of the date which is 3 years from the termination date or the date on which the terminating institution repays all indebtedness to the bank, provided that no retirement shall occur during that period if any such retirement would result in the Farm Credit Bank's failure to meet minimum capital requirements.

(b) If the Farm Credit Bank and the terminating institution are unable to reach agreement regarding the retirement of Farm Credit Bank equities, either institution may send the most recent proposals to the Farm Credit Administration along with an explanation of the points of disagreement. The Farm Credit Administration may require the bank to retire terminating institution equities under such conditions as the Farm Credit Administration may require.

(c) No retirement shall occur if the Farm Credit Administration determines that the retirement of equities of the Farm Credit Bank would threaten the viability of the Farm Credit Bank.

(d) The amount to be paid to a terminating institution in the retirement of equities owned in the Farm Credit Bank shall be equal to the amount of the stock and allocated equities owned by the terminating institution in the Farm Credit Bank, less any impairment, at the date the request for retirement is made by the terminating institution. If the Financial Assistance Corporation owns any preferred stock in the Farm Credit Bank, any impairment of bank capital shall be applied first against the value of institution-owned equities for the purpose of determining the value of stock to be retired.

(e) If the terminating institution has outstanding stock issued to another Farm Credit institution, the institution shall retire all such equity investment prior to termination.

(f) A Farm Credit Bank's equities obligated to be retired under any agreement between the terminating institution and the Farm Credit Bank shall not be considered as part of the permanent capital of the Farm Credit Bank for purposes of § 615.5240 of this chapter.

§ 611.1260 Dissenters' rights.

(a) Dissenting stockholders, at their discretion, may, but are not required to, have their stock or participation certificates in the terminating institution retired as provided in paragraph (b) of this section. To be eligible to be a dissenting stockholder a person must be the owner, other than a Farm Credit institution, of voting or non-voting stock or other equities of the terminating institution who was either—

(1) Not eligible to vote on the termination resolution; or

(2) Eligible to vote on the termination resolution and voted, in person or by proxy, against such resolution.

(b) The terminating institution shall pay dissenting stockholders in accordance with the priorities in liquidation set forth in the bylaws of the terminating institution. Notwithstanding any provision of paragraph (c) to the contrary, dissenting stockholders who hold eligible borrower stock shall receive not less than par value for their stock.

(c)(1) Except as provided in paragraph (d) of this section, the price paid to dissenting stockholders who own common stock or participation certificates shall be the adjusted book value, which is the book value on the computation date adjusted to reflect—

(i) Any increase or decrease in asset value resulting from the appraisals required in § 611.1240; and

(ii) Deduction of the amount of the exit fee.

(2) Payments made to dissenting stockholders who own common stock or participation certificates referred to in paragraph (c)(1) of this section shall be made on the following basis:

(i) If the adjusted book value of the common stock is less than or equal to the par or stated value of such stock, the full amount of the payment shall be in cash.

(ii) If the adjusted book value of the common stock or participation certificate is greater than its par or stated value, the institution shall pay in cash an amount equal to the par or stated value of the stock or participation certificate. For the amount in excess of par or stated value, the institution may:

(A) Pay cash;

(B) Cause or otherwise provide for the successor institution to issue on the date of termination subordinated debt to the stockholder in an amount equal to the amount by which the adjusted book value exceeds the par or stated value of the stock or participation certificate. Such subordinated notes shall have a maturity date not in excess of 7 years after the date of issuance, shall have a priority on liquidation ahead of all

equity shares but shall be subordinated to the claims of all other creditors, and shall carry a rate of interest that shall be not less than the rate for debt of comparable maturity issued by the Treasury of the United States plus 1 percent; or

(C) Provide for any combination of paragraph (c)(2)(ii)(A) and (c)(2)(ii)(B) of this section.

(d) If the institution has adopted bylaws in accordance with § 611.1210(e), dissenting stockholders who own common stock or participation certificates issued in accordance with such bylaws shall be paid in cash an amount equal to the lesser of the par or adjusted book value of such stock or certificates.

(e) For the purposes of this section, common stock consists of voting stock, non-voting stock that was formerly voting stock, and stock that has no priority of payment over any other class upon liquidation.

(f) The notice to stockholders and other holders of equity interests required in § 611.1220(e) shall include the following information:

(1) A statement of the rights of dissenting stockholders as specified in paragraph (a) of this section;

(2) The current book and par value per share, and the expected book and market value of the stockholder's pro rata interest in the successor institution;

(3) An explanation of the procedure by which stockholders may exercise dissenters' rights and the form they shall return to the terminating institution informing it of their intent to exercise such rights. The notification form by which stockholders may exercise dissenters' rights shall include the date by which the form must be returned to the terminating institution, as specified in paragraph (b) of this section, and a place for stockholders to mark or indicate that they intend to exercise dissenters' rights. The notification form shall be a convenient method for the stockholders to notify the institution and may consist of, but is not limited to, a postcard or pre-printed return envelope;

(4) An explanation that dissenting stockholders shall have until 30 days following notification of their dissenters' rights to request retirement of their stock or participation certificates. The stockholders' election to retire stock shall be rescinded if a petition for reconsideration is successful; and

(5) An explanation that maintenance of a borrowing relationship with the successor institution shall not be required as a condition for owning stock in the successor institution, unless otherwise directed by the bylaws of the successor institution.

(g) The terminating institution shall retire the shares of the dissenting stockholders on or before the termination date.

§ 611.1266 Loan refinancing by borrowers.

(a) All loans and loan assets of the terminating institution shall become assets of the successor institution unless they have been sold by the terminating institution or refinanced by the borrower.

(b) If an institution has been designated to serve the territory of the terminating institution prior to the mailing of the information statement, or if an institution that offers credit services of the same type as the terminating institution is already chartered to serve the territory, such institution shall be identified in the information statement. In addition, such institution shall provide the terminating institution with the following information:

(1) The name and address of the institution office that the borrower may contact;

(2) An explanation of the procedures to apply for financing with the institution and the procedures by which the loan may be transferred to the institution;

(3) An explanation of the stock purchase requirements of the new institution; and

(4) Any other information the institution wishes to include or routinely provides to new borrowers.

(c) If the terminating institution receives the information required in paragraph (b) of this section prior to the mailing of the information statement to borrowers, the terminating institution shall include such information in the information statement. If an institution has not been designated to serve the territory or if the terminating institution does not receive the information required in paragraph (b) of this section prior to the mailing of the information statement, the terminating institution shall furnish each borrower with the address and telephone number of the district Farm Credit Bank or other appropriate Farm Credit institution with an explanation that such institution may be contacted for information about the Farm Credit institution(s) that will serve the territory in the future.

(d) The terminating institution shall provide credit and loan information to the institution designated to serve the territory upon the borrower's request, in accordance with §§ 618.8300 through 618.8325 of this chapter, and take such other steps as are necessary to facilitate the transfer of the loan to the institution.

§ 611.1270 Continuation of borrower rights.

A terminating institution may not require a waiver of applicable borrower rights provisions as a condition of ownership interest in and continued financing by the successor institution. Terminating institutions which maintain an OFI relationship with the Farm Credit Bank shall comply with borrower rights provisions contained in subparts K, L, M and N of part 614 of these regulations.

§ 611.1275 Termination of Large Associations.

(a) When a Large Association proposes to terminate, the Farm Credit Administration shall evaluate in consultation with the Farm Credit System Insurance Corporation, the effect of the proposed termination of the Large Association on the viability of remaining System institutions in its district. The evaluation shall include a 2-year projection of earnings of those institutions.

(b) The Farm Credit Administration may request information from any non-terminating institutions in the Large Association's district in order to complete its evaluation of viability. Such institutions shall reply to any Farm Credit Administration request within 10 business days in order to have their information included in the evaluation unless a longer period is specified by the Farm Credit Administration.

(c) The criteria on which the Farm Credit Administration Board shall base its decision to approve or disapprove the termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

3. New subparts Q and R are added to read as follows:

Subpart Q—Termination of Farm Credit Status—Farm Credit Banks

Sec.

(a) Each Farm Credit Bank is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate the status of the bank as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may in its sole discretion grant a waiver in writing from any requirement of this subpart for good cause shown.

(b) The definitions set forth in § 611.1205 of subpart P of this part shall apply to this subpart Q, except that paragraph (h) shall not apply.

§ 611.1310 Advance notification.

(a) A terminating bank's board of directors shall commence the process of termination by adopting a commencement resolution indicating the bank's intention to terminate its Farm Credit status.

(b) Within 5 days of the adoption of the commencement resolution by the board of directors, the terminating bank shall:

(1) Submit a certified copy of the commencement resolution to the Farm Credit Administration and the Farm Credit System Insurance Corporation; and

(2) Mail a brief announcement to all holders of equity in the bank, the Federal Farm Credit Banks Funding Corporation, and the Farm Credit System Financial Assistance Corporation, stating that the board is taking steps to terminate the bank's Farm Credit status and describing the process of termination, the anticipated effect of termination on current holders of equity and on borrowers from the bank or from the associations that are stockholders in the bank, and the type of institution the successor institution will be.

(c) Within 5 days of its receipt of the announcement described in paragraph (b) of this section, each association in the district of the terminating bank shall mail a copy of the announcement to all holders of equity in the association along with an explanation of the effect that the bank's termination may have on their loans, including whether the borrower would continue to have any of the borrower rights provided by the Act and regulations.

(d) Within 10 days of the adoption of the commencement resolution, the terminating bank and the remaining Farm Credit Banks and banks for cooperatives shall enter into negotiations to provide for the terminating bank's satisfaction of joint and several liability on consolidated and Systemwide obligations as set forth in section 4.4 of the Act. Such agreement shall comply with the requirements set forth in § 611.1350(c) of this subpart.

(e)(1) Within 15 days after submission of the commencement resolution pursuant to paragraph (b)(1) of this section, the terminating bank shall submit to the Farm Credit Administration a statement of its estimation of the exit fee together with an explanation of the computation of the exit fee pursuant to the requirements of § 611.1340. For purposes of this estimation of the exit fee, the computation date set forth in § 611.1240(c) shall be the quarter end preceding the date of the commencement resolution.

(2) Within 45 days of its receipt of the terminating bank's estimated exit fee, the Farm Credit Administration shall either confirm the bank's estimate of the exit fee or notify the bank of any required revisions to the computation.

(3) In the event that the Farm Credit Administration requires adjustments to the estimated exit fee pursuant to paragraph (e)(2) of this section, the terminating bank may request reconsideration of any such adjustments. Such request shall be in writing and shall set forth specific reasons why the adjustments should not be made. The Farm Credit Administration shall reconsider the adjustments and shall inform the terminating bank of its determination within 15 days of the receipt of the reconsideration request.

(f) During the time period after the board of directors' adoption of the commencement resolution pursuant to paragraph (a) of this section and prior to the effective date of termination, the following conditions shall apply to the conduct of business of the terminating bank and its affiliated associations:

(1) Each prospective new borrower, other than a Farm Credit institution, shall be informed of the effect of the proposed termination upon the borrower's loan and shall be specifically informed whether the borrower will continue to have any of the borrower rights provided under the Act and regulations promulgated thereunder;

(2) Any existing common stockholders, other than Farm Credit institutions, who seek to have their equity interests retired before termination shall be informed that the retirement would extinguish the holder's right to an interest in the successor institution or to receive an amount equal to the adjusted book value of the holder's equity in the bank if the termination is completed.

§ 611.1311 Filing of termination application.

A terminating bank shall comply with the provisions in § 611.1211 of this part.

§ 611.1312 Filing date of termination application.

(a) A terminating bank shall comply with the provisions in paragraphs (a) and (b) of § 611.1212, except that the reference on paragraph (a) to § 611.1212(c) shall be construed to be a reference to paragraph (b) of this section.

(b) In the event that the advance notification required in § 611.1310 is not received by the Farm Credit Administration at least 90 days prior to the filing date that would otherwise be assigned to the termination application in accordance with paragraph (a) of this section, the application will be disapproved. During this 90-day period, the Farm Credit Administration shall contact other Farm Credit Banks to ascertain their willingness to provide service to the territory of the terminating bank. An inability of the Farm Credit Administration to arrange for a new bank for the territory shall not be grounds for an extension of the 90-day period. However, the Farm Credit Administration may in its sole discretion reduce the required 90-day period in the event that a new bank to serve the territory is selected prior to the expiration of the 90-day period.

§ 611.1313 Selection of Farm Credit Bank to serve territory.

(a) In selecting a Farm Credit Bank for the district of the terminating bank, the Farm Credit Administration shall consider, among other things, the following:

(1) The prospective efficiencies and economies;

(2) The stated preferences of the associations in the district that are not terminating their Farm Credit status;

(3) Compatibility of organization and operations of the district of the

terminating bank and the district of the proposed replacement bank;

(4) Management of the bank;

(5) Capacity of the bank to service the additional territory;

(6) Willingness of the bank to purchase all the loans to the associations in the district;

(7) Market diversities between the bank's district and the district of the terminating bank; and

(8) Geographical proximity.

(b) The Farm Credit Administration may, in its discretion, apportion the district of the terminating bank among two or more Farm Credit Banks.

§ 611.1315 Farm Credit Administration review and approval.

A terminating bank shall comply with the provisions in § 611.1215 of this part, except that the reference in § 611.1215(e) to § 611.1220(e) shall be construed to be a reference to § 611.1320.

§ 611.1320 Voting record date and stockholder approval.

A terminating bank shall comply with the provisions in § 611.1220 of this part, except that paragraph (c)(3) and (d) and the provisions in paragraph (e) pertaining to dissenting stockholders shall not apply. The reference in § 611.1220(b) to § 611.1225 shall be construed to be a reference to § 611.1325.

§ 611.1325 Requirements for information statement.

(a) A terminating bank shall comply with all the provisions in § 611.1225 of this part except paragraphs (h) and (s).

(b) If an OFI owns any shares of the terminating bank, the information statement shall also include a statement that OFIs shall have the right to have their stock retired together with an explanation of the procedures for doing so.

§ 611.1326 Prohibited acts.

A terminating bank and affiliated persons shall comply with the provisions in § 611.1226 of this part.

§ 611.1330 Plan of termination.

A terminating bank shall comply with the provisions in § 611.1230 of this part.

§ 611.1335 Stockholder reconsideration.

A terminating bank shall comply with the provisions in § 611.1235 of this part. For purposes of this section, the references to "15 percent of the eligible voting stockholders" in paragraphs (a) and (d) of § 611.1235 shall mean stockholder associations representing 15 percent of the eligible voting shares in the district.

§ 611.1340 Exit fee.

(a) If a Farm Credit Bank terminates alone, the exit fee shall be computed as follows:

(1) The assets and capital of the associations affiliated with the terminating bank, including unallocated surplus and earnings computed pursuant to § 611.1355(a), shall be deducted from the assets and capital of the terminating bank.

(2) After deduction of the assets and capital of the associations, any allowance for losses on assets that will be repaid at a value above net book value as a result of the termination shall be added to the assets and unallocated surplus of the bank, and the terminating bank shall comply with the provisions in § 611.1240 of this part.

(b) If a Farm Credit Bank terminates its Farm Credit status in conjunction with one or more affiliated associations, the exit fee shall be computed as follows:

(1) The exit fee for each terminating association shall be computed in accordance with § 611.1240.

(2) The balance sheets of the Farm Credit Bank as computed under paragraph (a) of this section, and of the terminating association(s) shall be combined, and the exit fee of the combined entity shall be computed in accordance with § 611.1240.

(3) The exit fee for the terminating bank shall be the amount by which the exit fee for the combined entity exceeds the total of the exit fees of the individual terminating associations.

(c) The equity of any OFI that chooses to receive cash from the transaction pursuant to § 611.1355(c) shall be deducted from the assets and capital of the terminating Farm Credit Bank in the computation of the exit fee.

§ 611.1350 Repayment of obligations.

(a) The terminating bank shall provide for the payment or assumption by the successor institution of all outstanding System debt obligations.

(b) Satisfaction of consolidated or Systemwide obligations on which a terminating bank is primarily liable shall be provided for in one or more of the following ways:

(1) Assumption of primary liability by one or more remaining System banks;

(2) Open market purchase and cancellation of obligations representing issues on which the terminating bank is a primary obligor; or

(3) Deposit of funds into a trust account in an amount sufficient to retire principal and interest on the Systemwide obligations on which the terminating bank is primarily liable.

(c) The terminating bank shall enter into an agreement with the remaining System banks, subject to the approval of the Farm Credit Administration, which agreement shall specify how the successor institution shall satisfy its joint and several liability under section 4.4 of the Act, to holders of obligations issued pursuant to section 4.2 of the Act and outstanding on the termination date. Any payments that may be made pursuant to such agreement, whether prior to or subsequent to termination, shall not exceed the amount that would have been payable by the terminating bank if a call by the Farm Credit Administration pursuant to section 4.4(a)(2)(B) of the Act had been made on the day prior to the termination date for the entire amount of Systemwide debt outstanding.

(d) In the event that the terminating bank and the remaining banks are unable to reach agreement within 90 days prior to the proposed termination date, the Farm Credit Administration shall require the banks to enter into an agreement that shall establish the terminating bank's proportionate share of any subsequent calls to be made as follows:

(1) The Farm Credit Administration shall determine a date to compute the percent of the total of the liability for which the terminating bank is responsible. Such liability computation date shall be on or before the computation date.

(2) The total amount of bonds on which the terminating bank is primarily liable as a percentage of total bonds issued and outstanding on the liability computation date shall be determined.

(3) This percentage shall be applied to only those obligations issued and outstanding on the bank's termination date.

(e) The terminating bank shall remain jointly and severally liable for all consolidated and Systemwide debt outstanding on the terminating date. The terminating bank shall sign a statement acknowledging the joint and several liability and liability for interest on obligations issued by other banks operating under the same title of the Act as part of the termination application.

(f)(1) The terminating bank shall pay to the Financial Assistance Corporation a share of the estimated present value of:

(i) All future assessments against the bank as required under section 6.9(e)(B) and paragraphs (c)(2)(C), (c)(4), and (c)(5)(A) and (B) of section 6.26 of the Act based on the average accruing retail loan volume of the bank and its affiliated associations for the preceding

year, had the bank remained in the System;

(ii) The payment required under section 6.26(d)(1)(C) of the Act based on the average accruing retail loan volume of the bank and its affiliated associations during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System; and

(iii) The payment required under section 6.9(e)(2)(C) of the Act based on the average accruing loan volume of the bank during the time period from the year that the obligations were issued to the year prior to the computation date, had the bank remained in the System.

(2) The present value estimate shall be made by the Financial Assistance Corporation.

§ 611.1355 Retirement of equities.

(a) The terminating bank must retire all equities owned by another Farm Credit institution prior to termination, unless such institution is an association that is terminating its Farm Credit status in conjunction with the bank's termination. The value of the equities shall include both allocated and unallocated equities and shall be calculated in accordance with § 611.1340, except that the amount of the exit fee shall not be deducted from the assets of the bank for purposes of the calculation. In addition, the amount of the unallocated surplus shall be distributed based on the average direct loan for the 36 months preceding the computation date.

(b) The terminating bank must retire all preferred stock owned by the Financial Assistance Corporation by a method acceptable to the Financial Assistance Corporation and the Farm Credit Administration.

(c) A holder of equities in the terminating bank, other than the Financial Assistance Corporation or another Farm Credit institution, may, but is not required to, have its equities retired on the same basis as provided in paragraph (a) of this section. Such holder shall inform the terminating bank of its preference within 90 days of the terminating bank's distribution of an information statement unless the bank permits an extension of time.

§ 611.1366 Loan refinancing by borrowers.

A terminating bank shall comply with the provisions in § 611.1266 of this part.

§ 611.1375 Farm Credit Administration evaluation.

(a) Within 30 days of the adoption of a commencement resolution by an institution, or group of institutions, whose assets on a combined basis constitute 10 percent or more of the assets of the Farm Credit System, the remaining Farm Credit Banks, banks for cooperatives and other System institutions may submit an analysis of projected financial condition and earnings for a 2-year period following the proposed termination date to the Farm Credit Administration. Any such analysis shall include a discussion of:

(1) The effect of the termination(s) on the viability of the remaining System institution(s) and/or any affiliated institutions;

(2) Any projected change in the cost of funds to the institutions remaining in the System due to increased expenses or higher interest rates, including the assumptions on which the projection is based; and

(3) Other relevant information.

(b) The Farm Credit Administration shall make a separate analysis and shall review any analysis provided by non-terminating System institutions and make a final determination as to the probable effect of such termination on the viability of institutions remaining in the Farm Credit System.

(c) Banks that do not terminate shall provide necessary information to the Farm Credit Administration as may be requested by the agency to enable the Farm Credit Administration to make accurate financial projections.

(d) The criteria on which the Farm Credit Administration Board shall base its decision whether to approve or disapprove a proposed termination shall include the effect of such termination on the viability of institutions that remain in the Farm Credit System.

Subpart R—Termination of Farm Credit Status—Banks for Cooperatives

§ 611.1400 Scope of subpart.

Each bank for cooperatives is authorized, in accordance with sections 7.10 and 7.11 of the Act, to terminate its status as a Farm Credit institution. The regulations in this subpart, including such regulations as are incorporated by reference, set forth the procedural, disclosure, voting and approval requirements applicable to such termination. The Farm Credit Administration may, in its sole discretion, grant a waiver in writing from any requirement of this subpart for good cause shown.

§ 611.1405 Provisions applicable to terminating banks for cooperatives.

(a) A terminating bank for cooperatives shall comply with all the provisions applicable to terminating associations in subpart P of this part, except that the following provisions shall not apply: § 611.1205(h), § 611.1212(c), § 611.1255, § 611.1270, and § 611.1275.

(b) A terminating bank for cooperatives shall comply with the following provisions in subpart Q of this part: § 611.1310, § 611.1350, § 611.1355, and § 611.1375.

Dated: March 15, 1993.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 93-6351 Filed 3-18-93; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-03-AD]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model ATP series airplanes. This proposal would require placing a life limit on certain bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams. This proposal is prompted by results of fatigue tests and service experience, which indicate that these bolts are subject to fatigue failure prior to the fatigue lives specified in the Airplane Maintenance Manual for these airplanes. The actions specified by the proposed AD are intended to prevent structural failure of the engine support structure.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414,

Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-03-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-03-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified the FAA that an unsafe condition may exist on certain British Aerospace Model ATP series airplanes. The CAA advises that fatigue tests and service experience for the bolts that attach the left- and right-hand aft isolator brackets to the engine subframe aft mounting beams indicate that these bolts are subject to fatigue failure prior to the fatigue lives of 7,200 and 10,800 landings, as specified in the Airplane Maintenance Manual for Model ATP series airplanes. This condition, if not corrected, could result in structural failure of the engine support structure.

British Aerospace has issued Service Bulletin ATP-54-9, dated December 9, 1992, which describes procedures for establishing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The service bulletin also describes procedures for repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The CAA classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require placing a life limit of 5,000 landings for aft isolator bracket attachment bolts, part numbers A102-4E and A102-5E, on the left- and right-hand engine subframes. The proposed AD would also require repetitive inspections of those bolts that have exceeded 5,000 landings to detect missing, failed, or cracked bolts; and installation or replacement of bolts, if necessary. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $55 per work hour. The cost for required parts would be minimal. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $550, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace: Docket 93-NM-03-AD.

Applicability: Model ATP series airplanes having aft isolator bracket attachment bolts, part number A102-4E or A102-5E; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the engine support structure, accomplish the following:

(a) For airplanes on which the aft isolator bracket attachment bolts have accumulated less than 5,000 total landings as of the effective date of this AD: Prior to the accumulation of 5,000 total landings on the bolts, or within 1,250 hours time-in-service after the effective date of this AD, whichever occurs later, remove the bolts and replace them with new or serviceable parts, in accordance with British Aerospace Service Bulletin ATP-54-9, dated December 9, 1992. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(b) For airplanes on which the aft isolator bracket attachment bolts will have accumulated 5,000 or more total landings before it is replaced in accordance with paragraph (a) of this AD: Prior to the accumulation of 5,000 total landings or within 150 hours time-in-service after the effective date of this AD, whichever occurs later, perform a visual inspection of the aft isolator bracket attachment bolts to determine if each bolt is in position, and to detect failed or cracked bolts, in accordance with British Aerospace Service Bulletin ATP–54–9, dated December 9, 1992.

(1) If any bolt is missing, failed, or cracked, prior to further flight, replace all four bolts in the assembly with new or serviceable parts, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(2) If no bolt is missing, failed, or cracked, repeat the visual inspection thereafter at intervals not to exceed 150 hours time-in-service. Within 1,250 hours time-in-service after the effective date of this AD, replace each bolt with a new or serviceable part, in accordance with the service bulletin. Thereafter, prior to the accumulation of 5,000 total landings on any bolt, replace it with a new or serviceable bolt, in accordance with the service bulletin.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

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

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–6339 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–P

14 CFR Part 39

[Docket No. 93–NM–02–AD]

Airworthiness Directives; SAAB-SCANIA Model SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. This proposal would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the environmental control system (ECS) compartment of the fuselage. This proposal is prompted by two in-flight incidents in which leakage of hot air from the air cycle machine in the ECS occurred and was not detected. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

DATES: Comments must be received by May 14, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB–SCANIA AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–02–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–02–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB-SCANIA Model SF340A and SAAB 340B series airplanes. The LFV advises that two in-flight incidents have occurred in which the flight crew detected that the environmental control system (ECS) was malfunctioning. The leakage of hot air from the air cycle machine in the ECS was not detected. Results of a subsequent inspection indicated that leakage had probably occurred numerous times. The LFV indicates that leakage of this type may cause damage to the fuselage structure of these airplanes. This condition, if not corrected, could result in reduced structural integrity of the fuselage, possible rupture, and subsequent decompression of the airplane.

SAAB-SCANIA has issued SAAB 340 Service Bulletin SAAB 340–53–028, dated August 20, 1992, which describes procedures for the installation of an additional protective shield between the existing heat protection and the air

cycle machine in the ECS compartment of the fuselage.

Installation of this shield will improve the heat protection of the structure. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive SAD No. 1-055, dated September 4, 1992, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require the installation of an additional protective shield between the existing heat protection and the air cycle machine in the ECS compartment of the fuselage. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 188 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be supplied by the manufacturer to operators at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $206,800, or $1,100 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB-SCANIA: Docket 93-NM-02-AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159, inclusive; Model SAAB 340B series airplanes, serial numbers 160 through 252, inclusive, and 254 through 258, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the fuselage, accomplish the following:

(a) Within 3,000 hours time-in-service after the effective date of this AD, install an additional protective shield between the existing heat protection and the air cycle machine, in accordance with SAAB 340 Service Bulletin SAAB 340-53-028, dated August 20, 1992.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch.

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

Issued in Renton, Washington, on March 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-6338 Filed 3-18-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 71

[Airspace Docket No. 92-ASW-36]

Proposed Establishment of Jet Route J-184

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Jet Route J-184 between Buckeye, AZ, and Newman, TX. Currently, Jet Route J-4 is the only route between these points and aircraft are routinely vectored between Buckeye and Newman to expedite the movement of traffic in the area and to reduce the congestion on that jet route. The new J-184 would provide an alternate route to the north of J-4 and segregate en route traffic from traffic transitioning between Buckeye and Newman. This action would improve the traffic flow and reduce controller workload.

DATES: Comments must be received on or before April 28, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ASW-500, Docket No. 92-ASW-36, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX 76193-0500.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ASW–36." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish J–184 between Buckeye, AZ, and Newman, TX. Currently, J–4 is the only route between these areas; therefore, aircraft are routinely vectored in that area to expedite traffic and to reduce congestion along J–4. The new J–184 would provide air traffic control with an alternative to radar vectors. This action would improve the flow of traffic in the area and reduce controller workload. Jet routes are published in § 71.607 of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The jet route listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Incorporation by reference, Jet routes.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A Compilation of Regulations, dated November 2, 1992, and effective November 27, 1991, is amended as follows:

Section 71.607 Jet Routes.

* * * * *

J–184 [New]
From Buckeye, AZ; Deming, NM; to Newman, TX

* * * * *

Issued in Washington, DC, on March 3, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–6374 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 92–ANE–25]

Proposed Alteration of VOR Federal Airway V–123; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Federal Airway V–123 by realigning the airway from the TRESA Intersection to the CASSH Intersection located in the State of New York. Realigning V–123 would simplify the flow of traffic and reduce controller workload.

DATES: Comments must be received on or before May 5, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ANE–500, Docket No. 92–ANE–25, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall

regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 92–ANE–25." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–220, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to realign V–123 from the TRESA Intersection to the CASSH Intersection located in the State of New York. Altering this airway by eliminating the dogleg would simplify the flow of traffic and reduce the air traffic controller's workload in the Albany, NY, area. Domestic VOR Federal airways are published in § 71.123 of FAA Order 7400.7A, dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Domestic VOR Federal airways, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7A, Compilation of Regulations, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.123 Domestic VOR Federal Airways

* * * * *

V–123 [Revised]

From INT Washington, DC, 065° and Baltimore, MD, 197° radials, via INT Washington, DC, 065° and Woodstown, NJ, 230° radials; Woodstown; Robbinsville, NJ; INT Robbinsville 044° and LaGuardia, NY, 213° radials; LaGuardia; INT LaGuardia 032° and Carmel, NY, 157° radials; Carmel; INT Carmel 344°T (356°M) and Albany, NY, 181°T (194°M) radials; Albany; Cambridge, NY; to Glens Falls, NY.

* * * * *

Issued in Washington, DC, on March 10, 1993.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–6375 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–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; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to May 14, 1993, the comment period for the proposed rule to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the testicular prosthesis, a medical device. FDA is taking this action in response to a request for an extension of the comment period.

DATES: Written comments by May 14, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: 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: In the **Federal Register** of January 13, 1993 (58 FR 4116), FDA issued a proposed rule to require the filing of a PMA or a notice of completion of a PDP for the testicular prosthesis, a medical device. Interested persons were given until March 15, 1993, to respond to the proposed rule. FDA received one request for an extension of the comment period for 120 days. The request stated that additional time was needed to review all of the clinical issues, medical literature, clinical endpoint, and safety criteria to adequately address them.

FDA agrees in part with the request and is granting a 60-day extension. Accordingly, the comment period is extended to May 14, 1993.

Interested persons may, on or before May 14, 1993, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that

individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 10, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-6359 Filed 3-16-93; 11:40 am]

BILLING CODE 4160-01-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

Regulatory Flexibility Act Plan for Periodic Review of the Commission's Rules and Regulations

AGENCY: Federal Communications Commission.

ACTION: Advanced notice of proposed rule making.

SUMMARY: This action establishes a plan for the review of FCC regulations pursuant to the requirements of the Regulatory Flexibility Act of 1980 (94 Stat. 1164, Pub. L. 96-354, September 19, 1980), 5 U.S.C. 610. The Appendix specifies the Commission's rules that will be reviewed during calendar year 1993. Any revision to this plan will be published in the Federal Register.

DATES: Comments on the rules chosen for review are due May 18, 1993.

ADDRESSES: Comments should be submitted to: Secretary, Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Office of Managing Director (202) 632-0923.

SUPPLEMENTARY INFORMATION: Pursuant to the published plan, specific regulations which may require amendment or rescission will be published and provision will be made for comments by interested parties.

1. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 610, the Commission hereby publishes this plan for the review of all rules issued by the agency in calendar years 1981, 1982 and 1983 which have, or will have, a significant economic impact on a substantial number of small entities. The purpose of the review will be to determine whether such rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of such rules upon a substantial number of small entities.

2. The accompanying appendix lists the FCC regulations to be reviewed during calendar year 1993. In succeeding years, lists will be published for the review of regulations promulgated ten years preceding the year of review.

3. In reviewing each rule under this plan to minimize significant economic impact on small entities consistent with the stated objectives of applicable statutes, the FCC will consider the following factors:

(1) The continued need for the rule;

(2) The nature of complaints or comments received concerning the rule from the public;

(3) The complexity of the rule;

(4) The extent to which the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

4. Appropriate information has been provided for each rule including a brief description of the rule and the need for and legal basis of the rule. Pursuant to the Regulatory Flexibility Act, the public is invited to comment on the rules chosen for review within May 18, 1993. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comments. If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed. Comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

5. *It is ordered that,* The Secretary shall send a copy of this Notice to the Chief Counsel for Advocacy of the Small Business Administration pursuant to the Regulatory Flexibility Act. Public Law No. 96-354, Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Appendix—List of Rules for Review Pursuant to Section 610(c) of the Regulatory Flexibility Act of 1980, 5 U.S.C. 610(c) For 1993

Office of Engineering and Technology

Part 2—Frequency Allocations and Radio Treaty Matters; General Rules and Regulations

Subpart B—Allocation, Assignment, and Use of Radio Frequencies

Need: These rules provide for the allocation of radio spectrum.

Legal Basis: 47 U.S.C. 154, 302, 303.

Section Number and Title Description

2.106 Table of Frequency Allocations.

Subpart I—Marketing of Radiofrequency Devices

Need: These rules provide for authorization of radiofrequency devices.

Legal Basis: 47 U.S.C. 154, 302, 303.

Section Number and Title Description

2.803 Equipment requiring Commission approval.

Subpart J—Equipment Authorization Procedures

Need: These rules provide for authorization of radiofrequency devices.

Legal Basis: 47 U.S.C. 154, 392, 303.

Section Number and Title Description

General Provisions

2.901 Basis and purpose.
2.902 Verification.
2.904 Notification.
2.908 Identical defined.

Conditions Attendant to a Grant of an Equipment Authorization

2.931 Responsibility of the grantee.
2.932 Modification of equipment.
2.938 Retention of records.
2.941 Availability of information relating to grants.
2.943 Submission of equipment for testing.

Verification

2.951 Cross reference.
2.952 Limitations on verification.
2.953 Responsibility of manufacturer or importer.
2.955 Retention of records.
2.956 FCC inspection and submission of equipment for testing.
2.957 Sampling tests of equipment compliance.

Notification

2.971 Cross reference.
2.973 Limitations on notification.
2.975 Application for notification.
2.977 Changes in notified equipment.

2.979 Information required on identification label for notified equipment.

Private Radio Bureau

Part 13—Commercial Radio Operators

Need: These rules prescribe rules and regulations for the licensing of commercial radio operators.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

General

13.2 Classification of operator licenses and endorsements.
13.3 Holding of more that one commercial radio operator license.
13.4 Term of licenses.
13.5 Eligibility for new license.

Applications

13.11 Application filing procedures.
13.12 Additional requirements for First Class Radiotelegraph Operator's Certificate and six months service endorsement.

Examinations

13.21 Examination elements.
13.22 Required qualifications.
13.23 Examination procedures.
13.25 Examination credit for licenses held.
13.26 Cancellation of superfluous licenses.
13.28 License renewals.

Scope of Authority

13.61 Need for licensed commercial radio operators.
13.62 Violations; aiding and abetting.

Miscellaneous

13.76 Limitation on certain Restricted Radiotelephone Operator Permits.

Part 17—Construction, Marking, and Lighting of Antenna Towers

Need: These rules prescribe rules and regulations for the construction, marking and lighting of antenna towers.
Legal Basis: 47 U.S.C. 154, 303, 307.

Section Number and Title Description

17.4 Commission consideration of proposed antenna structure with respect to possible hazard to air navigation.
17.49 Recording of tower light inspections in the station record.

Common Carrier Bureau

Part 21—Domestic Public Fixed Radio Services

Subpart B—Applications and Licenses

Need: These rules prescribe filing requirements, application forms and procedures for Domestic Public Fixed Radio Services.
Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.15 Technical content of applications.
21.23 Amendment of applications.
21.39 Consideration involving transfer or assignment applications.
21.45 License period.

Subpart C—Technical Standards

Need: These rules prescribe technical operating standards for stations in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.100 Frequencies.
21.101 Frequency tolerance.
21.108 Directional antennas.
21.122 Microwave digital modulation.

Subpart G—Digital Electronic Message Service

Need: These rules prescribe standards for the Digital Electronic Message Service in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.500 Eligibility.
21.501 Digital Termination Nodal Stations may be authorized only as part of a Digital Termination System.
21.502 Frequencies.
21.503 Frequency stability.
21.504 Frequency interference.
21.505 Purpose and permissible service.
21.506 Transmitter power.
21.507 Radiated power limitation in 10,600–10,680 MHz band.
21.508 Emission and bandwidth.
21.509 Antennas.
21.510 Interconnection.
21.511 Spectrum utilization.

Subpart I—Point to Point Microwave Radio Service

Need: These rules allocate spectrum and establish its use for the Point-to-Point Microwave Service in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.701 Frequencies.
21.703 Bandwidth and emission limitations.
21.710 Limitations on path lengths and channel loading.

Subpart K—Multipoint Distribution Service

Need: These rules allocate spectrum for use by the Multipoint Distribution Service licensees in the Domestic Public Fixed Radio Services.

Legal Basis: 47 U.S.C. 154, 303, 307–310.

Section Number and Title Description

21.901 Frequencies.
21.903 Purpose and permissible service.
21.909 MDS response stations.

Part 22—Public Mobile Service

Subpart A—General

Need: These rules prescribed general standards and definitions for the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.0 Scope and authority.
22.1 Other applicable rule parts.
22.2 Definitions.

Subpart B—Applications and Licenses

Need: These rules prescribe filing requirements and procedures for processing applications for the Public Mobile services.
Legal Basis: 47 U.S.C. 152–155, 301, 303, 307–309, 315, 317.

Section Number and Title Description

22.3 Authorization required.
22.4 Eligibility.
22.5 Formal and informal applications.
22.6 Filing of applications, fees, and number of copies.
22.9 Standard application forms for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications and Offshore Radio Services.
22.11 Miscellaneous forms shared by all public mobile services.
22.13 General application requirements.
22.15 Technical content of applications.
22.16 Objective need standards.
22.19 Waiver of rules.
22.20 Defective applications.
22.21 Inconsistent or conflicting applications.
22.22 Repetitious applications.
22.23 Amendment of applications.
22.25 Application for temporary authorization.
22.26 Receipt of application.
22.27 Public notice period.
22.28 Dismissal and return of applications.
22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
22.30 Opposition to applications.
22.31 Mutually exclusive applications.
22.32 Consideration of applications.
22.33 Grants by random selection.
22.35 Comparative evaluation of mutually exclusive applications.
22.39 Transfer of control or assignment of station authorization.
22.43 Period of construction.
22.44 Termination of authorization.
22.45 License period.

Subpart C—Technical Standards

Need: These rules prescribe technical standards for stations in the Public Mobile Services.

Legal Basis: 47 U.S.C. 154, 303

Section Number and Title Description:

22.100 Frequencies, interference.
22.101 Frequency tolerance.
22.103 Standards governing use of 72–76 MHz band.
22.104 Emission types.
22.105 Bandwidth.
22.106 Emission limitations.
22.107 Transmitter power.
22.108 Directional antennas.
22.109 Antenna structure.
22.110 Anntenna polarization.
22.113 Quiet zones.
22.115 Topographic data.
22.117 Transmitters.
22.119 Limitation on use of transmitters for other services.
22.120 Type acceptance of transmitters.
22.121 Replacement of equipment.

Subpart D—Technical Operation

Need: These rules prescribe technical operations required by stations in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.200 Station inspection.
22.201 Posting station licenses.
22.205 Operator and maintenance requirements (licensee's general responsibility).
22.208 Station records.
22.210 Operation during emergency.
22.212 Tests.
22.213 Station identification.

Subpart E—Miscellaneous

Need: These rules prescribe miscellaneous requirements for stations in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.302 Duty of permittees and licensees to respond to official communications.
22.303 Discontinuance of station operation.
22.304 Tariffs, other reports.
22.307 Equal employment opportunities.
22.308 Incidental communication services.
22.309 Representations.

Subpart F—Development Authorizations

Need: These rules prescribe standards for development authorizations for the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.400 Eligibility.
22.401 Scope of service.
22.402 Adherence to program of research and development.
22.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.
22.404 Terms of grant; general limitation.
22.405 Additional application content.
22.406 Developmental report required.
22.407 Renewal.

Subpart G—Public Land Mobile Service

Need: These rules prescribe standards for the Public Land Mobile Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.500 Eligibility.
22.501 Frequencies.
22.502 Classification of base stations.
22.503 Geographical separation of co-channel stations.
22.504 Reliable service area.
22.505 Antenna height-power limit.
22.506 Power.
22.507 Bandwidth and emission limitations.
22.508 Modulation requirements.
22.509 Permissible communications.
22.514 Responsibility for operational control and maintenance of mobile units.
22.515 Control points.
22.516 Usage showing for additional channels.
22.517 Repeater stations.
22.518 Use of mobile station frequency for control station.
22.519 Dispatch stations.
22.521 Air-ground radiotelephone service.
22.522 Base station signaling system requirements for calling airborne stations.
22.523 Airborne station receiver requirements.
22.524 Auxiliary test stations.
22.525 One-way signaling stations.
22.527 Channel assignment policies for 900 MHz one-way signaling channels reserved for stations engaged in providing network signaling service.

Subpart H—Rural Radio Service

Need: These rules prescribe standards for the Rural Radio Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.600 Eligibility.
22.601 Frequencies.
22.604 Emission limitations.
22.605 Modulation requirements.
22.606 Permissible communications.
22.607 Priority of service.
22.608 Supplementary showing required with application for interoffice stations.
22.609 Supplementary showing required with applications for central office stations and rural subscriber stations.
22.610 Temporary fixed station. (Rural subscriber, interoffice, and central office stations.)

Subpart K—Domestic Public Cellular Radio Telecommunications Service

Need: These rules prescribe standards for the Domestic Public Cellular Radio Telecommunications Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.900 Scope.
22.901 Eligibility.
22.902 Frequencies.
22.903 Cellular system service areas.
22.904 Power limitations.
22.905 Antenna height-power for base stations.
22.906 Types of emissions and modulation requirements.
22.907 Emission requirements.
22.908 Transmitter construction and installation.
22.909 Control point.
22.910 Station identification.
22.911 Permissible communications.
22.912 Responsibility for operational control and maintenance of mobile stations.
22.913 Content of applications.
22.914 Provision of service to subscribers.
22.915 Cellular system capability specification.
22.916 Evaluation of cellular applications.
22.917 Demonstration of financial qualifications.
22.918 Amendment of cellular applications.
22.919 Restrictions on motions to enlarge issues.

Subpart L—Offshore Radio Service

Need: These rules prescribe standards for the Offshore Radio Service in the Public Mobile Services.
Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

22.1000 Eligibility.
22.1001 Frequencies.
22.1002 Power limitations.
22.1003 Emission limitations.
22.1004 Modulation requirements.
22.1005 Permissible communication.
22.1006 Temporary Fixed Stations (Offshore Radio).
22.1008 Priority of Service.

Part 25—Satellite Communications

Subpart C—Technical Standards

Need: These rules prescribe technical standards for authorizations in the Fixed-Satellite Service.
Legal Basis: 47 U.S.C. 303.

Section Number and Title Description

25.201 Definitions.
25.202 Frequencies, frequency tolerance and emission limitations.
25.204 Power Limits.
25.205 Minimum angle of antenna elevation.
25.208 Power flux density limits.
25.209 Antenna performance standards.
25.251 Special requirements for coordination.

Part 61—Tariffs

Need: These rules prescribe general and specific rules and procedures for

tariff publications, concurrences, special permission, suspensions and other tariff related documents.

Legal Basis: 47 U.S.C. 154, 203.

Section Number and Title Description

61.1 Purpose and application.
61.2 Clear and explicit explanatory statements.
61.3 Definitions.

General Rules

61.32 Method of filing publications.
61.33 Letters of transmittal.
61.35 Delivered free of charges.
61.36 Tariff publications not returned.
61.38 Supporting information to be submitted with letters of transmittal.

Specific Rules for Tariff Publications

61.52 Form, size, type, legibility, etc.
61.53 Consecutive numbering.
61.54 Composition of tariffs.
61.56 Supplements.
61.57 Cancellations.
61.58 Notice requirements.
61.59 Effective period required before changes.
61.67 New or discontinued telephone, telegraph, teletypewriter service points; mileages.
61.68 Special notations.
61.69 Rejection.
61.71 Reissued matter.
61.72 Posting.
61.73 Duplication of rates and regulation.
61.74 References to other instruments.

Concurrences

61.131 Scope.
61.132 Method of filing concurrences.
61.133 Format of concurrences.
61.134 Concurrences for through services.
61.135 Concurrences for other purposes.
61.136 Revocation of concurrences.

Applications for Special Permission

61.151 Scope.
61.152 Terms of applications and grants.
61.153 Method of filing applications.

Adoption of Tariffs and Other Documents of Predecessor Carriers

61.171 Adoption notice.
61.172 Changes to be incorporated in tariffs in successor carrier.

Suspensions

61.191 Carrier to file supplement when notified of suspension.
61.192 Contents of supplement announcing suspension.
61.193 Vacation of suspension order; supplements announcing same; etc.

Part 63—Extension of Lines Discontinuance of Service by Carriers and Grants of Recognized Private Operating Agency Status

Need: These rules prescribe the general practice and procedure to be observed by carriers who wish to extend lines or discontinue services.

Legal Basis: 47 U.S.C. 154, 201–224.

Section Number and Title Description

63.56 Waivers.
63.58 Exemption.

Part 64—Miscellaneous Rules Relating to Common Carriers

Subpart G—Furnishing of Enhanced Services and Customer-Premises Equipment by Communications Common Carriers

Need: These rules govern common carrier furnishment of enhanced services and customer-premises equipment.

Legal Basis: 47 U.S.C. 154, 201–205, 403, 404, 410.

Section Number and Title Description

64.702 Furnishing of enhanced services and customer-premises equipment.

Part 68—Connection of Terminal Equipment to the Telephone Network

Subpart A—General

Need: These rules prescribe uniform standards to protect the telephone network from harm, and for the compatibility of hearing aids and telephones.

Legal Basis: 47 U.S.C. 154, 201–205, 215.

Section Number and Title Description

68.3 Definitions.

Subpart C—Registration Procedures

Need: These rules prescribe filing requirements, application forms and procedures for the registration of terminal equipment and protective circuitry.

Legal Basis: 47 U.S.C. 154, 201–205, 215.

Section Number and Title Description

68.215 Installation of other than "fully protected" system premises wiring.

Subpart D—Conditions for Registration

Need: These rules prescribe the tests to be conducted and criteria to be met in order to register terminal equipment and protective circuitry.

Legal Basis: 47 U.S.C. 154, 155, 157.

Section Number and Title Description

68.306 Hazardous voltage limitations.
68.308 Signal power limitations.
68.310 Longitudinal balance limitations.
68.312 On-hook impedance limitations.
68.314 Billing protection.

Subpart F—Connections

Need: These rules describe the plugs and jacks which represent the standard connectors to be used for connections to the telephone network.

Legal Basis: 47 U.S.C. 154, 156, 157.

Section Number and Title Description

68.502 Configurations.

Mass Media Bureau

Part 73—Radio Broadcast Services

Subpart A—AM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for AM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.1 Scope.
73.14 AM broadcast definitions.
73.25 Clear channels; Classes I and II stations.
73.44 AM transmission system emission limitations.
73.45 AM antenna systems.
73.51 Determining operating power.
73.54 Antenna resistance and reactance measurements.
73.58 Indicating instruments.
73.68 Sampling systems for antenna monitors.
73.69 Antenna monitors.
73.99 Presunrise service authorization (PSRA) and postsunset service authorization (PSSA).
73.127 Use of multiplex transmission.
73.128 AM stereophonic broadcasting.
73.150 Directional antenna systems.
73.152 Modification of directional antenna data.
73.158 Directional antenna monitoring points.
73.160 Vertical plane radiation characteristics, f(0).
73.183 Groundwave signals.
73.185 Computation of interfering signal.
73.186 Establishment of effective field at one kilometer.
73.190 Engineering charts and related formulas.

Subpart B—FM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for FM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.202 Table of allotments.
73.205 Zones.
73.207 Minimum distance separation between stations.
73.208 Reference points and distance computations.
73.209 Protection from interference.
73.212 Administrative changes in authorizations.
73.220 Restrictions on use of channels.
73.258 Indicating instruments.
73.267 Determining operating power.
73.277 Permissible transmissions.

73.295 FM subsidiary communications services.
73.297 FM stereophonic sound broadcasting.
73.310 FM technical definitions.
73.313 Topographic data.
73.314 Field strength measurements.
73.316 FM antenna systems.
73.319 FM multiplex subcarrier technical standards.
73.333 engineering charts.

Subpart C—Noncommercial Educational FM Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for Noncommercial Educational FM broadcast radio services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.501 Channels available for assignment.
73.512 Special procedures applicable to Class D noncommercial educational stations.
73.513 Noncommercial educational FM stations operating on unreserved channels.
73.561 Operating schedule; time sharing.
73.593 Subsidiary communications services.

Subpart E—Television Broadcast Stations

Need: These rules prescribe filing requirements, application forms and procedures for television broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.601 Scope of subpart.
73.603 Numerical designation of television channels.
73.606 Table of allotments.
73.610 Minimum distance separations between stations.
73.614 Power and antenna height requirements.
73.621 Noncommercial educational TV stations.
73.642 Subscription TV service.
73.643 Subscription TV operating requirements.
73.644 Subscription TV transmission systems.
73.663 Determining operating power.
73.681 Definitions.
73.682 TV transmission standards.
73.683 Field strength contours.
73.684 Prediction of coverage.
73.685 Transmitter location and antenna system.
73.687 Transmission system requirements.
73.688 Indicating Instruments.
73.691 Visual modulation monitoring equipment.
73.699 TV engineering charts.

Subpart F—International Broadcast Stations

Need: These rules prescribe operating procedures for international broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.703 Geographical zones and areas of reception.
73.713 Program tests.
73.733 Normal license period.
73.761 Time of operation.
73.764 International broadcast station operator requirements.
73.781 Logs.

Subpart G—Emergency Broadcast Systems

Need: These rules provide a means for the development and implementation of Emergency Broadcast system planning and operation at the National, State, and local levels.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

Definitions

73.903 Emergency Broadcast System (EBS).
73.904 Licensee.

Activation Actions

73.932 Radio Monitoring and Attention Signal transmission requirement.

EBS Attention Signal Equipment

73.940 Encoder devices.

Tests

73.961 Tests of the Emergency Broadcast System procedures.
73.962 Closed Circuit Tests of approved National level interconnecting systems and facilities of the Emergency Broadcast System.

Subpart H—Rules Applicable to All Broadcast Stations

Need: These rules prescribe operating procedures applicable to all broadcast services.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.
73.1201 Station identification.
73.1202 Retention of letters received from the public.
73.1207 Rebroadcasts.
73.1212 Sponsorship identification; list retention; related requirements.
73.1213 Antenna structure, marking and lighting.
73.1225 Station inspections by FCC.
73.1515 Special field test authorizations.
73.1540 Carrier frequency measurements.
73.1545 Carrier frequency departure tolerances.
73.1550 Extension meters.
73.1570 Modulation levels: AM, FM, and TV aural.
73.1580 Transmission system inspections.
73.1590 Equipment performance measurements.
73.1610 Equipment tests.
73.1620 Program tests.
73.1665 Main transmitters.
73.1670 Auxiliary transmitters.
73.1690 Modification of transmission systems.
73.1715 Share time.
73.1750 Discontinuance of operation.
73.1800 General requirements related to the station log.
73.1820 Station log.
73.1835 Special technical log.
73.1840 Retention of logs.
73.1860 Transmitter duty operators.
73.1870 Chief operators.
73.1930 Political editorials.
73.3511 Applications required.
73.3516 Specification of facilities.
73.3533 Application for construction permit or modification of construction permit.
73.3539 Application for renewal of license.
73.3540 Application for voluntary assignment or transfer of control.
73.3550 Requests for new or modified call sign assignments.
73.3571 Processing of AM broadcast station applications.
73.3572 Processing of TV broadcast, low power TV, TV translator and TV booster station applications.
73.3573 Processing FM broadcast station applications.
73.3580 Local public notice of filing of broadcast applications.
73.3584 Procedure for filing petitions to deny.
73.3594 Local public notice of designation for hearing.
73.3597 Procedures on transfer and assignment applications.
73.3613 Filing of contracts.

Part 74—Experimental, Auxiliary, and Special Broadcast and Other Program Distributional Services

Subpart—General; Rules Applicable to All Services in Part 74

Need: These rules prescribe filing requirements, application forms and procedures applicable to all services regulated under part 74.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.1 Scope.
74.3 FCC inspection of stations.
74.12 Notification of filing of applications.
74.18 General operator requirements.
74.19 Special technical records.
74.21 Broadcasting emergency information.
74.22 Use of common antenna structure.
74.23 Interference jeopardizing safety of life or protection of property.
74.24 Short-term operation.
74.28 Additional orders.
74.30 Antenna structure, marking and lighting.

Subpart D—Remote Pickup Broadcast Stations

Need: These rules set out operating procedures exclusive to remote pickup broadcast stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.401 Definitions.
74.402 Frequency assignment.
74.432 Licensing requirements and procedures.
74.433 Temporary authorizations.
74.452 Equipment changes.
74.463 Modulation requirements.
74.482 Station identification.

Subpart E—Aural Broadcast Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to aural broadcast auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.502 Frequency assignment.
74.533 Remote control and unattended operation.
74.535 Emission and bandwidth.
74.536 Directional antenna required.
74.537 Temporary authorizations.
74.550 Equipment authorizations.
74.551 Equipment changes.
74.564 Posting of station licenses.

Subpart F—Television Broadcast Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to television broadcast auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.601 Classes of TV broadcast auxiliary stations.
74.602 Frequency assignment.
74.603 Sound channels.
74.604 Interference avoidance.
74.631 Permissible service.
74.632 Licensing requirements.
74.633 Temporary authorizations.
74.634 Remote control operation.
74.635 Unattended operation.
74.636 Power limitations.
74.637 Emissions and emission limitations.
74.638 Frequency coordination.
74.641 Antenna systems.
74.651 Equipment changes.
74.661 Frequency tolerance.
74.662 Frequency monitors and measurements.
74.664 Posting of station license.

Subpart G—Low Power TV, TV Translator, and TV Booster Stations

Need: These rules prescribe operating procedures exclusive to low power TV, TV translator, and TV booster stations.

Legal Basis. 47 U.S.C. 154 and 303.

Section Number and Title Description

74.701 Definitions.
74.702 Channel assignments.
74.703 Interference.
74.705 TV broadcast station protection.
74.707 Low power TV and TV translator station protection.
74.709 Land mobile station protection.
74.731 Purpose and permissible service.
74.732 Eligibility and licensing requirements.
74.734 Attended and unattended operation.
74.735 Power limitation.
74.736 Emissions and bandwidth.
74.737 Antenna location.
74.750 Transmission system facilities.
74.751 Modification of transmission systems.
74.765 Posting of station and operator licenses.
74.781 Station records.
74.783 Station identifications.

Subpart H—Low Power Auxiliary Stations

Need: These rules prescribe operating procedures exclusive to low power auxiliary stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.832 Licensing requirements and procedures.
74.833 Temporary authorizations.

Subpart I—Instructional Television Fixed Service

Need: These rules prescribe operating procedures exclusive to instructional television fixed service stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.901 Definitions.
74.902 Frequency assignments.
74.931 Purpose and permissible service.
74.937 Antennas.
74.938 Transmission standards.
74.950 Equipment performance and installation.

Subpart L—FM Broadcast Translator Stations and FM Broadcast Booster Stations

Need: These rules prescribe operating procedures exclusive to FM broadcast translator and FM broadcast booster stations.

Legal Basis: 47 U.S.C. 154 and 303.

Section Number and Title Description

74.1202 Frequency assignment.
74.1251 Technical and equipment modifications.
74.1281 Station records.

Part 76—Cable Television Service

Subpart J—Diversification of Control

Need: These rules prescribe ownership requirements applicable to the cable television service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

76.501 Cross-ownership.

Subpart K—Technical Standards

Need: These rules prescribe technical standards applicable to the cable television service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

76.605 Technical standards.

Part 78—Cable Television Relay Service

Subpart A—General

Need: These rules indicate general operating information for the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.1 Purpose.

Subpart B—Applications and Licenses

Need: These rules prescribe application and licensing requirements applicable to the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.11 Permissible service.
78.18 Frequency assignments.

Subpart D—Technical Regulations

Need: These rules prescribe technical requirements applicable to the cable television relay service.

Legal Basis: 47 U.S.C. 152, 153, 154, 301, 303, 307, 308, and 309.

Section Number and Title Description

78.101 Power limitations.
78.103 Emissions and emission limitations.
78.111 Frequency tolerance.

Private Radio Bureau

Part 80—Stations in the Maritime Services

Subpart A—General Information

Need: These rules describe the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

80.5 Definitions.

Subpart B—Applications and Licenses

Need: These rules prescribe practice and procedures for the filing of applications in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.15 Eligibility for station license.
80.19 Standard forms to be used.
80.21 Supplemental information required.
80.23 Filing of applications.
80.25 License term.
80.29 Changes during license term.
80.33 Developmental license.
80.39 Authorized station location.
80.41 Control points and dispatch points.
80.45 Frequencies.
80.49 Time in which station is placed in operation.
80.54 Automated Maritime Telecommunications System (AMTS)—System licensing.
80.55 Application for a fleet station license.
80.57 Canada/U.S.A. channeling arrangement for VHF maritime public correspondence.
80.59 Compulsory ship stations.

Subpart C—Operating Requirements and Procedures

Need: These rules prescribe operating requirements and procedures in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Station Requirements—Land Stations

80.67 General facilities requirements for coast stations.
80.68 Facilities requirements for public coast stations using telegraphy.
80.69 Facilities requirements for public coast stations using telephony.
80.70 Special provisions relative to coast station VHF facilities.
80.71 Operating controls for stations on land.

Station Requirements—Ship Stations

80.80 Operating controls for ship stations.

Operating Procedures—General

80.93 Hours of service.
80.95 Message charges.
80.102 Radiotelephone station identification.
80.103 Digital selective calling (DSC) operating procedures.

Operating Procedures—Land Stations

80.106 Intercommunication in the mobile service.
80.108 Transmission of traffic lists by coast stations.
80.110 Inspection and maintenance of tower markings and associated control equipment.
80.111 Radiotelephone operating procedures for coast stations.

Special Procedures—Public Coast Stations

80.121 Public coast stations using telegraphy.

Special Procedures—Private Coast Stations

80.131 Radioprinter operations.

Shipboard General Purpose Watches

80.146 Watch on 500 kHz.
80.147 Watch on 2182 kHz.
80.148 Watch on 156.8 MHz (Channel 16).

Subpart D—Operator Requirements

Need: These rules prescribe operator requirements in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.151 Classification of operator licenses and endorsements.

Coast Station Operator Requirements

80.153 Coast station operator requirements.

Ship Station Operator Requirements

80.155 Ship station operator requirements.
80.156 Control by operator. Safety Convention.
80.161 Operator requirements of the Great Lakes Radio Agreement.
80.163 Operator requirements of the Bridge-to-Bridge Act.

General Operator Requirements

80.169 Operators required to adjust transmitters or radar.

Subpart E—General Technical Standards

Need: These rules prescribe general technical standards in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.203 Authorization of transmitters for licensing.
80.209 Transmitter frequency tolerances.
80.211 Emission limitations.
80.213 Modulation requirements.
80.215 Transmitter power.
80.217 Suppression of interference aboard ships.
80.223 Special requirements for survival craft stations.
80.225 Requirements for digital selective calling (DSC) equipment.
80.227 Special requirements for protection from RF radiation.

Subpart F—Equipment Authorization for Compulsory Ships

Need: These rules prescribe general technical requirements for type acceptance of equipment used on compulsory ships.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.263 Common requirements for survival craft radio equipment.
80.265 Requirements for survival craft portable radio equipment.
80.267 Requirements for survival craft nonportable radio equipment.
80.269 Technical requirements for radiotelephone distress frequency watch receiver.
80.271 Technical requirements for portable survival craft radiotelephone transceivers.
80.273 Technical requirements for radar equipment.

Subpart G—Safety Watch Requirements and Procedures

Need: These rules prescribe watch requirements and procedures for distress and safety related communications in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Coast Station Safety Watches

80.301 Watch requirements.
80.302 Notice of discontinuance, reduction, or impairment of service involving a distress watch.
80.303 Watch on 156.800 MHz (channel 16).

Ship Station Safety Watches

80.310 Watch required by voluntary vessels.

Subpart H—Frequencies

Need: These rules describe frequencies used in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

Radiotelegraphy

80.355 Distress, urgency, safety, call and reply Morse code frequencies.

Radiotelephony

80.371 Public correspondence frequencies.
80.373 Private communications frequencies.
80.374 Special provisions for frequencies in the 4000–4063 kHz and the 8100–8195 kHz bands shared with the fixed service.

Radiodetermination

80.375 Radiodetermination frequencies.

Operational Fixed Stations

80.381 Frequencies for operational fixed stations.

Automated Systems

80.385 Frequencies for automated systems.

Alaska Fixed Stations

80.387 Frequencies for Alaska fixed stations.

Subpart I—Station Documents

Need: These rules describe documents required to be maintained by licensees of radio stations in the maritime services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.401 Station documents requirement.
80.403 Availability of documents.
80.405 Station license.
80.407 Operator authorization.
80.409 Station logs.
80.411 Vessel certification or exemption.
80.413 On-board station equipment records.

Subpart J—Public Coast Stations

Need: These rules prescribe operating procedures for public coast stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.453 Scope of communications.

Use of Telephony

80.467 Duplication of VHF service.
80.469 Maritime mobile repeater stations in Alaska.
80.471 Discontinuance or impairment of service.

Automated Systems

80.475 Scope of service of the Automated Maritime Telecommunications Systems (AMTS).
80.477 Points of communications.
80.479 Assignment and use of frequencies for AMTS.

Subpart K—Private Coast Stations and Marine Utility Stations

Need: These rules prescribe operating procedures for private coast stations and marine utility stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.501 Supplemental eligibility requirements.
80.503 Cooperative use of facilities.
80.505 Points of communication.
80.507 Scope of service.
80.511 Assignment limitations.
80.513 Frequency coordination.
80.515 Limitations on use.

Subpart L—Operational Fixed Stations

Need: These rules prescribe requirements for operational fixed stations associated with coast stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.553 Supplemental eligibility requirements.
80.559 Licensing limitations.

Subpart M—Stations in the Radiodetermination Services

Need: These rules prescribe operating requirements for stations providing radionavigation or radiolocation service in the maritime radio services for ships.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.605 U.S. Coast Guard coordination.

Subpart N—Maritime Support Stations

Need: These rules prescribe operating requirements for stations providing support to maritime telecommunications.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.651 Supplemental eligibility requirements.
80.653 Scope of communications.
80.655 Use of frequencies.

Subpart O—Alaska Fixed Stations

Need: These rules prescribe operating requirements for Alaska Fixed stations in the maritime radio services.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.701 Scope of service.
80.707 Cooperative use of frequency assignments.

Subpart P—Standards for Computing Public Coast Station VHF Coverage

Need: These rules prescribe standards for computing Public Coast Station VHF coverage.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.755 Applicability.
80.757 Topographical data.
80.759 Average terrain elevation.
80.761 Conversion graphs.
80.763 Effective antenna height.
80.767 Propagation curve.
80.769 Shadow loss.
80.771 Method of computing coverage.
80.773 Ratio of desired to undesired signal strengths.

Subpart Q—Compulsory Radiotelegraph Installation for Vessels 1600 Gross Tons

Need: These rules prescribe radiotelegraph requirements for vessels of 1600 gross tons or more pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.836 General and individual vessel exemptions.

Subpart R—Compulsory Radiotelephone Installations for Vessels 300 Gross Tons

Need: These rules prescribe radiotelephone requirements for vessels between 300 and 1600 gross tons pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.854 Radiotelephone installation.
80.855 Radiotelephone transmitter.
80.856 Automatic radiotelephone alarm signal generator.
80.857 Installation of automatic radiotelephone alarm signal generator.
80.858 Radiotelephone receiver.
80.859 Main power supply.
80.860 Reserve power supply.
80.861 Required capacity.
80.862 Proof of capacity.
80.863 Antenna system.
80.864 Emergency electric lights.
80.865 Radiotelephone station clock.
80.866 Spare antenna.
80.867 Ship station tools, instruction books, circuit diagrams and testing equipment.
80.868 Card of instructions.
80.869 Test of radiotelephone station.
80.870 Survival craft radio equipment.
80.871 VHF radiotelephone station.
80.872 The VHF radiotelephone installation.
80.873 VHF radiotelephone transmitter.
80.874 VHF radiotelephone receiver.
80.875 VHF radiotelephone power supply.
80.876 VHF radiotelephone antenna system.
80.877 Controls and indicators required for VHF radiotelephone installation.

Subpart S—Compulsory Radiotelephone Installations for Small Passenger Boats

Need: These rules prescribe radiotelephone requirements for small passenger boats which transport more than six passengers for hire pursuant to requirements in the Communications Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.903 Inspection of radiotelephone installation.
80.905 Vessel radio equipment.
80.907 Principal operating position.
80.909 Radiotelephone transmitter.
80.911 VHF transmitter.

80.913 Radiotelephone receivers.
80.915 Main power supply.
80.917 Reserve power supply.
80.919 Required capacity.
80.921 Proof of capacity.
80.923 Antenna system.
80.925 Electric light.
80.927 Antenna radio frequency indicator.
80.929 Nameplate.
80.931 Test of radiotelephone installation.
80.933 General exemptions.
80.935 Station clock.

Subpart T—Radiotelephone Installation Required for Vessels on the Great Lakes

Need: These rules prescribe radiotelephone requirements for certain vessels navigating on the Great Lakes.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.951 Applicability.
80.953 Inspection and certification.
80.955 Radiotelephone installation.
80.956 Required frequencies and uses.
80.957 Principal operating position.
80.959 Radiotelephone transmitter.
80.961 Radiotelephone receiver.
80.963 Main power supply.
80.965 Reserve power supply.
80.967 Antenna system.
80.969 Illumination of operating controls.
80.971 Test of radiotelephone installation.

Subpart U—Radiotelephone Installations Required by the Bridge-to-Bridge Act

Need: These rules prescribe radiotelephone requirements for certain vessels subject to the Bridge-to-Bridge Act.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.1001 Applicability.
80.1003 Station required.
80.1005 Inspection of station.
80.1007 Bridge-to-bridge radiotelephone installation.
80.1009 Principal operator and operating position.
80.1011 Transmitter.
80.1013 Receiver.
80.1015 Power supply.
80.1017 Antenna system.
80.1019 Antenna radio frequency indicator.
80.1021 Nameplate.
80.1023 Test of radiotelephone installation.

Subpart V—Emergency Position Indicating Radiobeacons (EPIRBs)

Need: These rules prescribe technical requirements for Emergency Position Indicating Radiobeacons (EPIRBs).

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

80.1053 Special requirements for Class A EPIRB stations.
80.1055 Special requirements for Class B EPIRB stations.
80.1057 Special requirements for Class C EPIRB stations.
80.1059 Special requirements for Class S EPIRB stations.
80.1061 Special requirements for 406.025 MHz EPIRBs.

Subpart X—Voluntary Radio Installations

Need: These rules prescribe technical and operating requirements for ships that voluntarily choose to install and use certain radio equipment.

Legal Basis: 47 U.S.C. 154, 303, 351–386.

Section Number and Title Description

General

80.1153 Station log and radio watches.

Voluntary Telegraph

80.1155 Radioprinter.

On-Board Communications

80.1175 Scope of communications of on-board stations.
80.1177 Assignment and use of frequencies.
80.1179 On-board repeater limitations.
80.1181 Station identification.
80.1183 Remote control for maneuvering or navigation.

Part 87—Aviation Services

Subpart A—General Information

Need: These rules provide the statutory basis and purpose of part 87.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.5 Definitions.

Subpart B—Applications and Licenses

Need: These rules prescribe the procedures and requirements for radio station licenses in the aviation services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.21 Standard forms to be used.
87.23 Supplemental information required.
87.25 Filing of applications.
87.31 Changes during license term.
87.37 Developmental license.

Subpart C—Operating Requirements and Procedures

Need: These rules prescribe operating requirements in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Operating Requirements

87.73 Transmitter adjustments and tests.
87.75 Maintenance of tower marking and control equipment.
87.77 Availability for inspections.

Radio Operator Requirements

87.89 Minimum operator requirements.
87.91 Operation of transmitter controls.

Operating Procedures

87.103 Posting station license.
87.105 Availability of operator permit or license.
87.107 Station identification.
87.109 Station logs.
87.111 Suspension or discontinuance of operation.

Subpart D—Technical Requirements

Need: These rules contain the technical requirements for radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.131 Power and emissions.
87.133 Frequency stability.
87.135 Bandwidth of emission.
87.137 Types of emission.
87.139 Emission limitations.
87.141 Modulation requirements.
87.143 Transmitter control requirements.
87.145 Acceptability of transmitters for licensing.
87.147 Type acceptance of equipment.

Subpart F—Aircraft Stations

Need: These rules prescribe the operating requirements for aircraft radio stations.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.187 Frequencies.

Emergency Locator Transmitters

87.195 Frequencies.

Subpart G—Aeronautical Advisory Stations (Unicoms)

Need: These rules prescribe the operating requirements for aeronautical advisory radio stations (Unicoms).

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.213 Scope of service.
87.215 Supplemental eligibility.
87.217 Frequencies.

Subpart H—Aeronautical Multicom Stations

Need: These rules prescribe operating requirements for aeronautical multicom stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.237 Scope of service.
87.239 Supplemental eligibility.

Subpart I—Aeronautical Enroute and Aeronautical Fixed Stations

Need: These rules prescribe operating requirements for aeronautical enroute and aeronautical fixed stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Aeronautical Enroute Stations

87.261 Scope of service.

Subpart J—Flight Test Stations

Need: These rules prescribe operating requirements for flight test radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.301 Supplemental eligibility.
87.303 Frequencies.
87.305 Frequency coordination.
87.307 Cooperative use of facilities.

Subpart L—Aeronautical Utility Mobile Stations

Need: These rules prescribe operating requirements for aeronautical utility mobile radio stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.345 Scope of service.
87.347 Supplemental eligibility.
87.349 Frequencies.
87.351 Frequency change.

Subpart O—Airport Control Tower Stations

Need: These rules prescribe operational requirements for airport control tower stations and control tower remote communications outlet stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.417 Scope of service.
87.419 Supplemental eligibility.
87.421 Frequencies.
87.423 Hours of operation.
87.425 Interference.

Subpart P—Operational Fixed Stations

Need: These rules prescribe operating requirements for operational fixed stations providing control, repeater or relay functions for associated aeronautical stations.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.447 Supplemental eligibility.
87.449 Frequencies.
87.451 Licensing limitations.

Subpart Q—Stations in the Radiodetermination Service

Need: These rules prescribe operational requirements for stations in the radiodetermination service providing radionavigation and radiolocation services for the purpose of aeronautical navigation.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.473 Supplemental eligibility.
87.475 Frequencies.

Subpart S—Automatic Weather Observation Stations

Need: These rules prescribe operating requirements for automatic weather observation stations in the aviation radio services.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

87.527 Supplemental eligibility.
87.529 Frequencies.

Part 90—Private Land Mobile Radio Services

Subpart A—General Information

Need: These rules describe the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.7 Definitions.
90.17 Local Government Radio Service.
90.19 Police Radio Service.
90.21 Fire Radio Service.
90.23 Highway Maintenance Radio Service.
90.25 Forestry Conservation Radio Service.
90.35 Medical Services.
90.49 Communications Standby Facilities.
90.79 Manufacturers Radio Service.
90.81 Telephone Maintenance Radio Service.

Subpart B—Land Transportation Radio Services

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.87 General Eligibility.
90.89 Motor Carrier Radio Service.
90.91 Railroad Radio Service.
90.93 Taxicab Radio Service.
90.95 Automobile Emergency Radio Service.

Subpart F—Radiolocation Service

Need: These rules prescribe operating requirements for the radiolocation service.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.103 Radiolocation Service.

Subpart G—Applications and Authorizations

Need: These rules prescribe application procedures for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.117 Applications for radio station or radio system authorizations.
90.119 Application Forms.
90.123 Full Disclosures.
90.127 Submission and Filing of Applications.
90.129 Supplemental Information to be Routinely Submitted with Applications.
90.135 Modification of License.
90.143 Grants of Applications.
90.155 Time in Which Station Must be Placed in Operation.
90.157 Dicontinuance of Station Operation.
90.159 Temporary and Conditional Permits.

Subpart H—Policies Governing the Assignment of Frequencies

Need: These rules prescribe procedures governing the assignment of private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.173 Policies Governing the Assignment of Frequencies.
90.175 Frequency Coordination Requirements.
90.176 Interservice Sharing of Frequencies in the 150–174 and 450–470 MHz Bands.
90.177 Protection of Certain Radio Receiving Locations.
90.179 Shared Use of Radio Stations.
90.185 Multiple Licensing of Radio Transmitting Equipment in the Mobile Radio Service.

Subpart I—General Technical Standards

Need: These rules prescribe general technical requirements for use of private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.205 Power.
90.207 Types of Emissions.
90.209 Bandwidth Limitations.
90.211 Modulation Requirements.
90.212 Provisions Relating to the use of Scrambling Devices and Digital Voice Modulation.
90.213 Frequency Tolerance.

Subpart J—Non-Voice and Other Specialized Operations

Need: These rules prescribe the operating requirements for non-voice and other specialized operations on private land mobile radio frequencies.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.233 Base/mobile non-voice operations.
90.235 Secondary Fixed Signaling Operations.
90.237 Interim Provisions for Operations of Radioteleprinter and Radiofacsimile Devices.
90.238 Telemetry Operations.
90.250 Meteor Burst Communications.

Subpart K—Standards for Special Frequencies or Frequency Bands

Need: These rules prescribe standards for special frequencies or frequency bands.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.257 Assignment and Use of Frequencies in the Band 72–76 MHz.
90.261 Assignment and Use of the Frequencies in the Band 450–470 MHz for Fixed Operations.
90.267 Assignment and Use of 12.5 kHz Offsets.
90.313 Frequency Loading Criteria.

Subpart N—Operating Requirements

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.421 Operation of Mobile Units in Vehicles Not Under the Control of the Licensee.
90.425 Station Identification.
90.429 Control Point and Dispatch Point Requirements.
90.443 Content of Station Records.

Subpart O—Transmitter Control

Need: These rules prescribe operating requirements for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.463 Transmitter Control Points.

Subpart P—Paging Operations

Need: These rules prescribe operating requirements for the private land mobile paging radio service.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.490 One-way Paging Operations in the Private Services.
90.492 One-way Paging Operations in the 806–824/851–869 MHz and 896–901/935–940 MHz Bands.
90.494 One-way Paging Operations in the 929–930 MHz Band.

Subpart R—Frequency List

Need: These rules prescribe frequencies available for the private land mobile radio services.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.555 Combined Frequency Listing.

Subpart S—Regulations Governing Licensing and Use of Frequencies in the 806–824, 851–869, 896–901 and 935–940 MHz Bands

Need: These rules prescribe operating requirements for Specialized Mobile Radio Service operators.

Legal Basis: 47 U.S.C. 154, 303, 332.

Section Number and Title Description

90.605 Forms to be Used.
90.611 Processing of Applications.
90.619 Frequencies Available for Use in the U.S./Mexico and U.S./Canada Border Areas.
90.621 Selection and Assignment of Frequencies.
90.623 Limitation on the Number of Frequencies Assignable for Conventional Systems.
90.627 Limitation on the Number of Frequency Pairs that May be Assignable for Trunked Systems and on the Number of Trunked Systems.
90.631 Trunked Systems Loading, Construction and Authorization Requirements.
90.633 Conventional Systems Loading Requirements.
90.637 Restrictions on Operational Fixed Stations.
90.645 Permissible Operations.

Part 94—Private Operational-Fixed Microwave Service

Subpart A—General Information

Need: These rules describe the private operational-fixed microwave radio service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.3 Definitions.
94.9 Permissible communications.
94.15 Policy governing the assignment of frequencies.

Subpart B—Applications, Authorizations, and Notifications

Need: These rules prescribe application procedures for the private operational-fixed microwave service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.25 Filing of applications.
94.27 Application and standard forms.
94.31 Supplemental information to be submitted with application.
94.43 Procedure for obtaining special temporary authority.

Subpart C—Technical Standards

Need: These rules prescribe technical standards for the private operational-fixed microwave service

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

94.61 Applicability.
94.63 Interference protection criteria for operational-fixed stations.
94.65 Frequencies.
94.67 Frequency tolerance.
94.69 Types of emission.
94.71 Emission and bandwidth limitations.
94.73 Power limitations.
94.75 Antenna limitations.
94.77 Interference to geo-stationary satellites.
94.92 Technical standards for stations authorized prior to July 1, 1976.
94.93 Provisions for Private Operational Fixed use of the 12,200–12,700 MHz Band.
94.94 Microwave digital modulation.

Part 95—Personal Radio Services

Subpart A—General Mobile Radio Service (GMRS)

Need: These rules describe the General Mobile Radio Service (GMRS) and prescribe application and operational requirements for that service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

Applying for a GMRS System License

95.89 Renewing a license.

Operating a GMRS Station

95.179 Individuals who may be station operators.

Subpart C—Radio Control (R/C) Radio Service

Need: These rules describe the Radio Control Radio Service and prescribe application and operational requirements for that service.

Legal Basis: 47 U.S.C. 154, 303.

Section Number and Title Description

General Provisions

95.201 (R/C Rule 1) What is the Radio Control (R/C) Radio Service?
95.202 (R/C Rule 2) How do I use these rules?
95.203 (R/C Rule 3) Am I eligible to operate an R/C station?

95.204 (R/C Rule 4) Do I need a license?
95.205 (R/C Rule 5) Where may I operate my R/C station?
95.206 (R/C Rule 6) Are there any special restrictions on the location of my R/C station?

How To Operate an R/C Station

95.207 (R/C Rule 7) On what channels may I operate?
95.208 (R/C Rule 8) How high may I put my antenna?
95.209 (R/C Rule 9) What equipment may I use at my R/C station?
95.210 (R/C Rule 10) How much power may I use?
95.211 (R/C Rule 11) What communications may be transmitted?
95.212 (R/C Rule 12) What communications are prohibited?
95.213 (R/C Rule 13) May I be paid to use my R/C station?
95.214 (R/C Rule 14) Who is responsible for R/C communications I make?
95.215 (R/C Rule 15) Do I have to limit the length of my communications?
95.216 (R/C Rule 16) Do I identify my R/C communications?
95.217 (R/C Rule 17) May I operate my R/C station transmitter by remote control?

Other Things You Need to Know

95.218 (R/C Rule 18) What are the penalties for violating these rules?
95.219 (R/C Rule 19) How do I answer correspondence from the FCC?
95.220 (R/C Rule 20) What must I do if the FCC tells me that my R/C station is causing interference?
95.221 (R/C Rule 21) How do I have my R/C transmitter serviced?
95.222 (R/C Rule 22) May I make any changes to my R/C station transmitter?
95.223 (R/C Rule 23) Do I have to make my R/C station available for inspection?
95.224 (R/C Rule 24) What are my station records?
95.225 (R/C Rule 25) How do I contact the FCC?

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–6321 Filed 3–18–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 90

[PR Docket No. 93–38; FCC 93–112]

Private Land Mobile Radio Services; Private Carrier Paging Service to Individuals

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rule changes that would enable private carrier paging (PCP) licensees to provide service to individuals. This action was initiated by a petition for rulemaking filed by the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. The effect of the proposed rules would be to increase the number of potential users of PCP systems.

DATES: Comments must be filed on or before April 19, 1993, and reply comments must be filed on or before May 4, 1993.

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

FOR FURTHER INFORMATION CONTACT: David L. Furth, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, PR Docket No. 93–38, FCC 93–112, adopted February 23, 1993, and released March 12, 1993. The full text of the Notice is available for inspection and copying during normal business hours in the FCC Docket Branch, room 230, 1919 M St., NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M St., NW., suite 140, Washington, DC 20037, (202) 857–3800.

Summary of Notice of Proposed Rule Making

1. In this Notice, we propose to amend part 90 of the Commission's rules to enable private carrier paging (PCP) licensees at 929–930 MHz and in the Business Radio Service to provide private carrier paging service to individuals as well as other currently eligible users. Comments are invited on this proposal.

2. Part 90 of our rules currently authorizes PCP licensees to offer commercial paging services only to end users who are themselves eligible for licensing under part 90 and to the federal government. Thus, because private individuals (other than those who qualify as business licensees) are not eligible for a part 90 license, they may not obtain paging service from a PCP system, but may only do so from a common carrier paging system.

3. The Notice proposes that private individuals, like business and government users, be eligible to use PCP services. As paging technology becomes less costly and more widely available, increasing numbers of individual users are seeking service for private as well as business purposes. We believe that these individuals would benefit from being able to choose between private and common carrier alternatives. In some instances, PCP operators may be able to provide technically superior service at a lower cost, or to offer specialized service tailored to the user's particular needs.

4. The proposal would also remove an unnecessary barrier to competition in the paging marketplace. The current rules require PCP licensees to screen potential customers to guard against ineligible users, and to similarly restrict resale to individuals by retail outlets and distributors. Because of the difficulty of enforcing these restrictions, some licensees are reluctant to serve any individual customers, including currently eligible business users, and many distributors are unwilling to resell PCP services at all. We believe that eliminating the restriction will make PCP services more widely available to the public.

5. In contrast to the competitive benefits that flow from allowing PCP licensees to serve individuals, we tentatively conclude that there is no public interest benefit to retaining the existing rule. Current paging technology can readily accommodate additional users on existing PCP systems. Thus, the rule appears not to be needed to prevent frequency overuse or degradation of service to existing customers. In the absence of an affirmative reason to retain the current rule, we believe the presumption should be in favor of eliminating it as proposed.

Initial Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980, an initial regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be viewed at the Commission's offices or obtained from its copy contractor.

List of Subjects in 47 CFR Part 90

Business and industry, Eligible end users, Private carrier paging, Private land mobile radio services.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 93–6354 Filed 3–18–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket 92–35; Notice 2 and Docket 93–11; Notice 1]

Federal Motor Vehicle Safety Standard; Lamps, Reflective Devices, and Associated Equipment; Correction

AGENCY: National Highway Traffic Safety Administration; DOT.

ACTION: Correction.

In document 93–5418, "Termination of rulemaking; notice of designation of docket," beginning on page 13243 in the issue of Wednesday, March 10, 1993, make the following corrections:

On page 13243 in the third column, and on page 13244 in the second column, the docket number for the replaceable light source informational docket was listed as 93–08. This should be changed to 93–11.

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 501.8.

Issued: March 15, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–6327 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 930355–3055]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement Amendment 6 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 6 would continue through December 31, 1994, the vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit, and 200 pounds (91 kg) for a permitted vessel without such endorsement, as currently implemented by emergency interim rule. The intended effect of this rule is to continue in effect management measures that respond to social and economic emergencies without jeopardizing the long-term rebuilding program for the overfished red snapper resource.

DATES: Written comments must be received on or before April 30, 1993.

ADDRESSES: Comments on the proposed rule should be sent to Robert A. Sadler, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of Amendment 6, which includes an environmental assessment (EA) and a regulatory impact review (RIR) should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 331, Tampa, FL 33609.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813–893–3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared by the Gulf of Mexico Fishery Management Council (Council) and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

By emergency interim rule published on December 30, 1992 (57 FR 62237), NMFS established commercial vessel trip limits for red snapper of 2,000 pounds (907 kg) for a vessel that has a red snapper endorsement on its reef fish permit, and 200 pounds (91 kg) for a permitted vessel without such endorsement. That emergency interim rule, initially effective through March 30, 1993, has been extended through June 3, 1993 (58 FR 13560, March 12, 1993). Amendment 6 proposes to continue the vessel trip limits through 1993 and 1994, unless replaced earlier by a more comprehensive effort limitation program.

The background and rationale for the trip limits were included in the emergency interim rule and are not repeated here. Under Amendment 6, no new applications for red snapper endorsements would be allowed—those currently issued would remain in effect. Transfer of an endorsement would be allowed only by an owner from one permitted vessel owned by him or her to another vessel so owned. The specific trip limits applicable to red snapper may be changed for 1994 under the FMP's framework procedure for adjusting management measures.

Minority reports submitted by three members of the Council objected to several provisions in Amendment 6, including continuation of the trip limits. These concerns will be addressed in the final rule.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 6, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedure of that order.

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

The Council prepared a RIR as part of Amendment 6, which concludes that this rule, if adopted, would have the effects summarized as follows. Extending the red snapper endorsements and trip limits beyond the duration of the emergency interim rule would generate positive economic benefits compared to the "derby" fishery that occurred in 1992 without the endorsements and trip limits. Additional analysis and discussion are contained in the RIR, a copy of which is available (see **ADDRESSES**).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an EA that discusses the impacts on the environment as a result of this rule. The

EA is available (see **ADDRESSES**), and comments on it are requested.

NMFS determined that the emergency interim rule, which this rule proposes to continue in effect, would be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Alabama, Florida, Louisiana, and Mississippi. Texas does not participate in the coastal zone management program. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Magnuson Act.

This proposed rule involves a collection-of-information requirement for purposes of the Paperwork Reduction Act under control number 0648–0270.

A federalism assessment was prepared on the emergency interim rule that its implementation was consistent with the principles, criteria, and requirements of E.O. 12612. Since this rule would continue in effect the measures in that emergency interim rule, a new federalism assessment is not required.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 16, 1993.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is proposed to be amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

2. Section 641.4 is amended by adding paragraphs (m) and (n), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.4 Permits and fees.

* * * * *

(m) *Red snapper endorsement.* (1) As a prerequisite for exemption from the trip limit for red snapper specified in § 641.21(d)(1), vessel for which a reef fish permit has been issued under this section must have a red snapper endorsement on such permit and such permit and endorsement must be aboard the vessel.

(2) A red snapper endorsement is invalid upon sale of the vessel; however, an owner of a permitted vessel may transfer the red snapper endorsement to another permitted vessel owned by him or her by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(n) *Condition of a permit.* As a condition of a reef fish permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted vessel—

(1) May not exceed the appropriate vessel trip limit for red snapper, as specified in § 641.21 (d)(1) or (d)(2); and

(2) May not transfer a red snapper at sea, as specified in § 641.21(d)(3).

3. Section 641.7 is amended by adding paragraphs (u) and (v), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.7 Prohibitions.

* * * * *

(u) Exceed the vessel trip limits for red snapper, as specified in § 641.21 (d)(1) and (d)(2).

(v) Transfer a red snapper at sea, as specified in § 641.21(d)(3).

4. Section 641.21 is amended by adding paragraph (d), effective from the effective date of the final rule through December 31, 1994, to read as follows:

§ 641.21 Harvest limitations.

* * * * *

(d) *Red snapper trip and transfer limitations.* (1) Except as provided in paragraph (d)(2) of this section, a vessel for which a reef fish permit has been issued under § 641.4 may not possess on any trip red snapper in excess of 200 pounds (91 Kg), whole or eviscerated weight.

(2) A vessel for which a red snapper endorsement has been issued under § 641.4(m) may not possess on any trip red snapper in excess of 2,000 pounds (907 Kg), whole or eviscerated weight.

(3) A red snapper may not be transferred at sea from one vessel to another.

[FR Doc. 93–6386 Filed 3–16–93; 4:27 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 52
Friday, March 19, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee on International Assistance in Administrative Law; Notice of Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Special Committee on International Assistance in Administrative Law of the Administrative Conference of the United States. The committee will discuss the role of the Administrative Conference in providing information and expertise on administrative law issues to foreign countries that request assistance.

DATE: Wednesday, March 31, 1993 at 10 a.m.

LOCATION: Office of the Chairman, Administrative Conference, 2120 L Street, NW., suite 500, Washington, DC.

FOR FURTHER INFORMATION: Michael W. Bowers, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., suite 500, Washington, DC 20037. Telephone: (202) 254–7020.

SUPPLEMENTARY INFORMATION: The committee meeting is open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

Dated: March 16, 1993.

Michael W. Bowers,

Deputy Research Director.

[FR Doc. 93–6406 Filed 3–18–93; 8:45 am]

BILLING CODE 6110–01–W

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 93–004N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held on Wednesday, 8 a.m. to 5 p.m., and Thursday, 8 a.m. to noon, April 7–8, 1993, at the Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814, telephone (301) 654–1000.

The Committee provides advice and recommendations to the Secretary of Agriculture pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, 301(a)(3), 301(c) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, 661(a)(3) and 661(c)) and sections 5(a)(3), 5(a)(4), 5(c), 8(b) and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a)(3), 454(a)(4), 454(c), 457(b) and 460(e)).

The meeting will include discussion of the following topics as time permits:

1. Topics suggested by the Committee;
2. Standards and labeling issues;
3. General discussion of FSIS plans for Track I and Track II;
4. Pathogen reduction strategy;
5. Exemptions—update;
6. EEC update;
7. Risk analysis update;
8. HACCP, the 1993 plan;
9. Processing Task Force—implementation plan;
10. Unfinished business and items from the audience, time permitting.

The Committee meeting is open to the public on a space available basis. Interested persons may file comments prior to and following the meeting. Comments should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. Background materials are available for inspection by contacting Mr. Fedchock on (202) 720–9150.

Done at Washington, DC, on March 16, 1993.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–6356 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–DM–M

[Docket No. 93–005N]

National Advisory Committee on Microbiological Criteria for Foods; Subcommittee Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Microbiological Criteria for Foods' Subcommittee on Risk Assessment will be held on Monday, 8 a.m. to 5 p.m., and Tuesday, 8 a.m. to 5 p.m., April 12–13, 1993, at the Omni Netherland Plaza Hotel, 35 West 5th Street, Cincinnati, Ohio 45202, telephone (513) 421–9100.

The Risk Assessment Subcommittee is considering further utilization of risk assessment strategies as a means of identifying levels of bacterial pathogens in meat and poultry products that may pose a significant risk of illness. The Subcommittee's work is under the auspices of the full Committee which provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be assessed, including criteria pertaining to microorganisms that indicate whether food has been processed using good manufacturing processes.

The Subcommittee meeting is open to the public on a space available basis. Interested persons may file comments prior to and following the meeting. Comments should be addressed to: Mr. Craig Fedchock, Advisory Committee Specialist, U.S. Department of Agriculture, Food Safety and Inspection Service, room 3175, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250. Background materials are available for inspection by contacting Mr. Fedchock on (202) 720–9150.

Done at Washington, DC, on: March 15, 1993.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–6324 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–DM–M

Forest Service

Exemption of the Westside Salvage and Stand Rehabilitation Project, Boise National Forest, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of exemption from appeal.

SUMMARY: This is notification that timber salvage harvest and reforestation activities to recover and rehabilitate natural resources from recent insect epidemics on the Westside project area, Emmett Ranger District, Boise National Forest, are exempt from appeal in accordance with 36 CFR 217.4(a)(11).

DATES: Effective on publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Don Dittmer, Timber Management Assistant, Emmett Ranger District, Boise National Forest, 1805 Highway 16, Emmett, ID 83617, Telephone: 208–365–7000.

SUPPLEMENTARY INFORMATION: Several years of drought in southwest Idaho have reduced soil moisture and weakened conifer trees. Consequently, Douglas-fir tussock moth, and bark beetle populations have dramatically increased and reached epidemic levels on the Boise National Forest. It is estimated more than 400,000 trees larger than 12 inches in diameter have died on the Forest as a result of insect damage since 1986.

As part of the effort to recover and rehabilitate natural resources damaged by the insect epidemic, Emmett Ranger District personnel have developed a proposal to harvest dead and dying timber, and reforest damaged acres. The Forest Service has completed the Westside Salvage and Stand Rehabilitation Project Environmental Assessment (EA), identified issues, developed alternatives, and analyzed effects of implementing timber salvage and other recovery activities.

The analysis area for the Westside Salvage and Stand Rehabilitation Project EA is located about 15 miles northwest of Ola, Idaho. The Forest would salvage trees killed or severely damaged by tussock moth and bark beetles on 7,370 acres and recover approximately 14.3 MMBF, using tractor/jammer and skyline logging systems. The tussock moth infestation has created several large, open areas of dead and dying trees, which contain few healthy, live trees. Salvage of these stands would result in "salvage openings," resembling clearcuts. A total of 1,180 acres of salvage opening would be created, including one opening each of about 45, 70, 210, 245, and 260 acres, and two of about 80 acres each. These acres would be rehabilitated by planting with ponderosa pine, Douglas-fir and western larch, to increase the site's timber productivity, resilience, and diversity of forest stands. Natural regeneration would be used to reforest small areas (less than five acres in size).

The project calls for construction of 2.5 miles of road, reconstruction of about 3.8 miles and maintenance of about 100 miles, to facilitate timber harvest in the area. In addition, about 35 miles of road would be administratively closed between October 1 and June 30 when sale and post-sale activities are underway, and all roads not needed for main transportation use would be physically closed to motorized vehicles in areas where forest cover is depleted by vegetation.

Management direction for the Westside project area is established in the Boise National Forest Land and Resource Management Plan (Forest Plan). The project area is not in a Forest Plan inventoried roadless area. The Forest Plan (specifically, the High Valley and Sagehen Management Areas) provides for removal of salvage timber from lands within the project area. In addition, the Forest Plan prescribes standards to protect soil, water, wildlife, visual, and other onsite resources. The selected alternative for the Westside project is consistent with standards and guidelines, objectives, and direction contained in the Forest Plan.

Forest Pest Management Specialists and District Foresters analyzed the insect situation and found no economical or practical means to control the current insect epidemic. Although salvage harvesting and reforestation would not control the epidemic, these activities would: (1) Recover valuable timber that would otherwise deteriorate, and (2) reforest those areas without tree cover as a result of insect-caused mortality, with tree species more resistant to tussock moth and western spruce budworm which would help minimize the potential for future outbreaks of these insects. It is extremely important to remove dead and dying timber prior to deterioration and subsequent value losses. An estimated ninety percent of the proposed harvest volume is grand fir, which under normal conditions, deteriorates rapidly when either dying or dead. Through timber salvage operations, breeding insects (principally bark beetles) can be removed in logs and Knutson-Vandenburg (K–V) funds can be generated for use to restore forest resources damaged by the insect epidemic.

The Forest Supervisor has determined through preliminary scoping and environmental analysis there is justification to expedite this project.

The decision for the Westside Salvage project may be implemented after publication of this notice in the **Federal Register** and after the decision document has been signed by the responsible official. If the project is delayed because of an appeal (delays of up to 150 days are possible), it is likely that much of the salvage harvest could not be implemented during the 1993 normal operating season. This would result in a loss of an estimated 4 MMBF with an associated value of $700,000. The total estimated value of merchantable dead, dying and unhealthy timber is $2,502,200. Of this, approximately $625,500 would be returned to counties from 25 percent fund receipts. Delays resulting from appeals could cause the loss of up to half of this value and potentially make the salvage sale unattractive to timber purchasers. This would jeopardize the objectives of the recovery and rehabilitation project.

Pursuant to 36 CFR 217.4(a)(11), it is my decision to exempt the Westside Salvage and Stand Rehabilitation Project, Emmett Ranger District, Boise National Forest, from appeal. The environmental assessment discloses effects of the proposed actions on the environment and addresses issues resulting from the proposal.

Dated: March 15, 1993.

Gray F. Reynolds,

Regional Forester, Intermountain Region, USDA Forest Service.

[FR Doc. 93–6337 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–11–M

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in St. Louis, Missouri, April 2–3, 1993, 8:30 a.m., to 4:30 p.m. The Council is comprised of 15 members appointed by the Secretary of Agriculture. The purpose of the meeting is for the Council to begin development of the National Urban and Community Forestry Action Plan and to develop criteria for the urban and community forestry challenge cost-share program. The meeting will be Chaired by William Kruidenier of the International Society of Arboriculture and is open to the public. Time will be provided at the beginning of each major agenda topic for public input. Time to speak must be requested in advance from the committee staff. However, Council discussion is limited to Forest Service staff and Council members. Persons who wish to bring urban and community forestry matters to the attention of the

Council may file written statements with the Council staff before or after the meeting.

DATES: The meeting will be held April 2–3, 1993.

ADDRESSES: The meeting will be held at the Radisson Hotel, 11228 Lone Eagle Drive, Bridgeton, Missouri 63044.

Send written statements and/or requests for agenda items to Brian McGuire, National Urban and Community Forestry Advisory Council, c/o Forest Service—Cooperative Forestry, USDA, P.O. Box 96090, Washington, DC 20090–6090, or phone (202) 205–1689.

FOR FURTHER INFORMATION CONTACT: Brian McGuire, Cooperative Forestry Staff, (202) 205–1689.

Dated: March 12, 1993.

Allan J. West,

Deputy Chief, State and Private Forestry.

[FR Doc. 93–6395 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Environmental Impact Statement, Nichols Watershed, SC; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR parts 1500–1508); and the Soil Conservation Service Guidelines (7 CFR part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement (EIS) is not being prepared for flood prevention in Nichols Watershed, Town of Nichols, Marion County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, room 950, Columbia, South Carolina, 29201, telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental evaluation of this federally-assisted action indicates that the proposed measure will not cause significant adverse local, regional or national impacts on the environment. As a result of these findings, Mr. Billy Abercrombie, State Conservationist, has determined that the preparation and review of an EIS is not needed.

The proposed action is to reduce flooding and improve flow conditions on 5.7 miles of channels in and adjacent to the town of Nichols.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental evaluation and the environmental assessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 1835 Assembly Street, room 950, Columbia, South Carolina 29201, 803–765–5681.

The FONSI has been sent to interested federal, state, and local agencies and other interested parties. A limited number of copies of the FONSI are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and Local officials.

Dated: March 8, 1993.

Billy Abercrombie,

State Conservationist.

[FR Doc. 93–6319 Filed 3–18–93; 8:45 am]

BILLING CODE 3410–16–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 19, 1993.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 29, 1992, January 15 and 25, 1993, the Committee for Purchase from People Who Are Blind or Severely Disabled published notices (57 FR 61884, 58 FR 4658 and 5959) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services, fair market price, and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Cover, Protective, Life Preserver
4220–00–926–9463
4220–00–926–9470
4220–00–926–9477

Services

Janitorial/Custodial
Department of Transportation, FAA, Air Traffic Control Tower, Murphy Terminal Building, Bradley International Airport, Windsor Locks, Connecticut.

Janitorial/Custodial
Federal Building, U.S. Post Office and Courthouse, 515 Murray Street, Alexandria, Louisiana.

Janitorial/Custodial
Naval Intelligence Command Building, (NIC II including trailers 1, 2 and 3), Suitland, Maryland.

Janitorial/Custodial
Lewistown Flight Service Station, Lewistown, Montana.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6397 Filed 3–18–93; 8:45 am]

BILLING CODE 6820–33–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received a proposal to add to the Procurement List commodities to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 19, 1993.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities to the Procurement List for production by the nonprofit agency listed:

Drawers, Cold Weather
8415–00–NSH–0076 Small, 8415–00–NSH–0077 Medium, 8415–00–NSH–0078 Large, 8415–00–NSH–0079 Extra Large (Requirements for the U.S. Marine Corps).

Undershirts, Cold Weather
8415–00–NSH–0080 Small, 8415–00–NSH–0081 Medium, 8415–00–NSH–0082 Large, 8415–00–NSH–0083 Extra Large (Requirements for the U.S. Marine Corps).

Nonprofit Agency: Peckham Vocational Industries, Inc., Lansing, Michigan.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6398 Filed 3–18–93; 8:45 am]

BILLING CODE 6820–33–P

Procurement List Addition

AGENCY: Committee for Purchase from People who are Blind or Severely Disabled.

ACTION: Addition to procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE. April 19. 1993.

ADDRESSES: Committee for Purchase from People who are Blind or Severely Disabled. Crystal Square 3. suite 403. 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: Comments were received from the current contractor for this service. The contractor stated that it is a minority-owned firm which is totally dependent on Department of Defense food service contracts. It expressed concern over the loss of its employees' jobs because of displacement by people with severe disabilities. It indicated that it had been frequently targeted by the Committee and the impact of the committee's program on Defense food services contracts is greater than the normal competition among Government contractors. The contractor questioned whether the Committee had properly assessed impact on the contractor and set a true fair market price in this case. It also indicated that, as a result of the Committee's actions, it did not believe the Committee's contention that 65% of people with severe disabilities remain unemployed. The contractor attached correspondence which had previously been sent to a Member of Congress by its employees expressing concern over their continued employment of this food service.

According to the Committee's records, this addition to the Procurement List is only the second time the Committee has added a service to the Procurement List where this company was the current contractor. The previous action occurred over three years ago. The contractor's sales have since increased over 50%, which indicates to the Committee that the contractor has recovered from any impact which the last action may had on it.

While the Committee regrets the loss of jobs for disadvantaged people which its action may entail, it continues to believe that the creation of jobs for people with severe disabilities, whose unemployment rates far exceed those for other disadvantaged groups, outweighs this loss. Because the unemployment rate for people with severe disabilities is so high, the Committee does not believe that even its most strenuous actions on their behalf could reduce the rate to a level where it would not be substantially above that for other disadvantaged groups. Displacement of some of the current workers is necessary to provide employment for people with severe disabilities and to allow the nonprofit agency which will provide the service to meet the statutory requirements of the Committee's program concerning the percentage of direct labor which must be performed by people with severe disabilities.

The Committee followed its standard procedures in calculating impact on the current contractor and setting the fair market price. This latter exceeds the price paid to the current contractor because the statement of work has been substantially changed to accommodate a remodeled dining facility

After consideration of the material presented to it concerning the capability of a qualified nonprofit agency to provide the service, fair market price, and the impact of the addition on the current or most recent contractor, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.6.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or

other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Food Service Attendant
Naval Station Building NS–43, Charleston, South Carolina.

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

E.R. Alley, Jr.,

Deputy Executive Director.

[FR Doc. 93–6399 Filed 3–18–93; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Advisory Committee on Nuclear Weapons Surety; Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Joint Advisory Committee (JAC) on Nuclear Weapons Surety will meet in closed session on March 30, 1993, at Albuquerque, NM.

The mission of the Joint Advisory Committee is to advise the Secretary of Defense, Secretary of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting, the Joint Advisory Committee will receive classified briefings on the health hazards of plutonium from accidents involving nuclear weapons.

In accordance with section 19(d) of the Federal Advisory Committee Act Public Law 92–463, as amended, (5 U.S.C. app. II, (1988)), it has been determined that this Joint Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: March 15, 1993.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–6329 Filed 3–18–93; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.025D]

Services for Children With Deaf-Blindness; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1993

Purpose of Program: To assist States in ensuring the provision of early intervention, special education, and related services as well as vocational and transitional services to infants, toddlers, children, and youth with deaf-blindness; to provide technical assistance to agencies that are preparing adolescents with deaf-blindness for adult activities; and to support research, development, replication, preservice and inservice training, parental involvement activities, and other activities to improve services to children with deaf-blindness.

This Notice supports the National Educational Goals by assisting those with disabilities through improved services and better trained service providers.

Eligible Applicants: Public or nonprofit private agencies, institutions, or organizations, including an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (if acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior, may apply for an award under this part.

Deadline for Transmittal of Applications: 5/28/93

Deadline for Intergovernmental Review: 7/27/93

Applications Available: 3/29/93

Available Funds: $400,000

Estimated Range of Awards: $128,000—$138,000

Estimated Size of Awards: $133,000

Estimated Number of Awards: 3

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; and (b) The regulations for this program in 34 CFR part 307.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 307.10, the Secretary will give an absolute preference to applications that meet the following priority. The Secretary will select for funding only those applications proposing projects that meet this absolute priority:

Priority—Demonstration Projects for Children Who Are Deaf-Blind

This priority supports projects that develop, improve, or demonstrate new or existing methods, approaches, or techniques that contribute to the adjustment, early intervention, and education of children who are deaf-blind.

For Application or Information Contact: Charles Freeman, U.S. Department of Education, 400 Maryland Avenue, SW., room 4617, Switzer Building, Washington, DC 20202–2644. Telephone: (202) 205–8165. Deaf and hearing impaired individuals may call (202) 205–6170 for TDD services.

Program Authority: 20 U.S.C. 1422.

Dated: March 15, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–6336 Filed 3–18–93; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Award of Grant Agreement, Noncompetitive Financial Assistance

AGENCY: DOE, Nevada Field Office.

ACTION: Notice of intent to award on a noncompetitive basis.

SUMMARY: DOE announces its intent to award a renewal, pursuant to 10 CFR 600.7(b)(2)(i)(A), of Grant Agreement DE–FG08–92NV11227 with the National Academy of Sciences, Washington, DC, to support investigations and reviews of activities through the Geotechnical Board. The Board will address and make recommendations regarding geotechnical engineering issues such as: (1) Creating and examining geohydrologic flow models to evaluate radionuclide transport issues; (2) the need to understand rock mechanics; and (3) design consideration for site characterization including analyses of underground technologies. The Board will also provide independent technical assessments of geotechnical capability in addressing pertinent issues, and by making balanced recommendations regarding future research directions or pending policy issues with geotechnical implications.

The project period under the above grant agreement will continue through July 27, 1997. The anticipated award

date of the amendment is March 26, 1993. The revised total estimated cost of the project is $515,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Yucca Mountain Site Characterization Project Office, Attn: Birdie Hamilton-Ray, P.O. Box 98608, Las Vegas, Nevada 89193–8608.

Issued in Las Vegas, Nevada, on March 4, 1993.

Nick C. Aquilina,

Manager, DOE, Nevada Field Office.

[FR Doc. 93–6385 Filed 3–18–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection (the DOE component or Federal Energy Regulatory Commission (FERC)); (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so, within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Federal Energy Regulatory Commission.
2. FERC–598.
3. Not Applicable.
4. Certification for Entities Seeking Exempt Wholesale Generator Status.
5. New.
6. On occasion.
7. Mandatory.
8. Businesses or other for-profit, Small businesses or organizations.
9. 56 respondents.
10. 1 response per respondent.
11. 8 hours per response.
12. 448 hours.
13. The Energy Policy Act of 1992 amended section 32 of the Public Utility Holding Company Act (PUHCA) to create a category of power producers known as exempt wholesale generators (EWGs). Persons seeking to become an EWG must file an application with the Commission. Persons that are granted EWG status will not be considered electric utility companies under section 2(a)(3) of PUHCA, and will be exempt from regulation under PUHCA.

Statutory Authority: Sec. 3506(a) and (c)(1), Paperwork Reduction Act of 1980, as amended, (Pub. L. No. 96–511) 44 U.S.C. 3506(a) and (c)(1).

Issued in Washington, DC, March 12, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–6384 Filed 3–18–93; 8:45 am]

BILLING CODE 6450–01–M

Electric Power Information; Proposed Reduction in Amount Published

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Notice of proposed reduction in the amount of certain electric power information currently published by the Energy Information Administration and solicitation of comments.

SUMMARY: The Energy Information Administration (EIA) is conducting a consultation to provide the public, industry, State agencies, and other Federal agencies with an opportunity to comment on proposed reduction in the amount of electric power information published by the EIA. This consultation will help to ensure that the public and interested organizations are aware of proposed changes in the information published and have an opportunity to comment. The EIA is proposing to eliminate some electric power information currently published in the following five publications: Cost and Quality of Fuels for Electric Utility Plants, DOE/EIA–0191; Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1; Financial Statistics of Major Publicly Owned Electric Utilities, DOE/EIA–0437/2; Electric Plant Cost and Power Production Expenses, DOE/EIA–0455; and Electric Trade in the United States, DOE/EIA–0531.

DATES: Written comments should be submitted within 30 days of the publication of this notice. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below of your intention to do so as soon as possible.

ADDRESSES: Send comments to Roger Sacquety, Survey Management Division, EI–523, Forrestal Building, U.S. Department of Energy, Washington, DC 20585, (202) 254–5440.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Roger Sacquety at the address listed above.

SUPPLEMENTARY INFORMATION:

I. Background
II. Current Actions
III. Request for Comments

I. Background

In order to fulfill its responsibilities under the Federal Energy Administration Act of 1974 (Pub. L. No. 93–275) and the Department of Energy Organization Act (Pub. L. No. 95–91), the Energy Information Administration conducts a central, comprehensive, and

unified energy data and information program to collect, evaluate, assemble, analyze, and disseminate data and information related to energy resources, reserves, production, demand, and technology, and related economic and statistical information relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation's economic and social needs.

Currently, EIA publishes nine on-going publications covering various aspects of electric power supply and demand. These publications are used by other Federal agencies, Congress, State and local governments, trade associations, educational institutions, and the public.

II. Current Actions

Recently, the Federal Energy Regulatory Commission (FERC) decided to collect and selectively process electric power information on the FERC Form 1, "Annual Report of Major Electric Utilities, Licensees and Others", and the FERC Form 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants." These data were previously collected and processed by the EIA for the FERC and published by the EIA in several of its publications. As a result of these changes in organizational responsibilities and the accompanying shift in resources, the EIA is investigating alternatives for meeting its mandate to provide relevant and timely electric power statistics. The EIA is also taking this opportunity to reexamine the uses of these electric data. All options being considered will permit the EIA to continue to fulfill its legal obligations and remain the principal and authoritative source of comprehensive energy data for the Congress, the Federal government, the States, and the public.

Comments are requested on the following proposed changes in EIA's electric power publications:

Proposal 1: Elimination of the following tables in the annual publication, Cost and Quality of Fuels for Electric Utility Plants, DOE/EIA–0191:

- Table ES3, "Monthly Receipts and Average Delivered Cost of Fossil Fuels by Type of Fuel" (monthly summary data).
- Table ES4, "Monthly Receipts and Average Delivered Cost of Coal by Rank" (monthly summary data).
- Table ES5, "Monthly Receipts and Average Delivered Cost of Coal by Type of Purchase and Mine" (monthly summary data).
- Table ES6, "Monthly Receipts and Average Delivered Cost of Petroleum by Type" (monthly summary data).
- Table 11, "Monthly Receipts, Heating Value, and Cost of Coal by Census Division" (monthly summary data).
- Table 17, "Monthly Receipts, Heating Value, and Cost of Petroleum by Census Division" (monthly summary data).
- Table 22, "Monthly Receipts, Heating Value, and Cost of Gas by Census Division" (monthly summary data).
- Table 27, "Receipts of Coal by Bureau of Mines District" (summary data).
- Table 33, "Origin and Destination of Coal Received by Bureau of Mines District and State" (summary data).
- Table 34, "Destination and Origin of Coal Received by Bureau of Mines District and State" (summary data).
- Table 44, "Profile of Fossil-Fuel Receipts" (5-year detail data).
- Table B1, "Coal Producing Districts" (summary data).

Additionally, in Table 36, "Origin of Coal Received by Company and Plant," detail county-level data would be eliminated.

Proposal 1 eliminates all tables from the publication with references to the Bureau of Mines (BOM) District (Tables 27, 33, 34, and B1). The BOM District data would still be collected by the FERC on the FERC Form 423. Monthly data contained in Tables ES3 through ES6 and in Tables 11, 17, and 22 are provided in the Electric Power Monthly. Data dealing with cost and quality of fuels in the Electric Power Monthly and the Electric Power Annual would continue to be published.

Proposal 2: Elimination of the following tables within the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1:

- Table 4, "Investments in Environmental Protection and Construction Work in Progress for Major Investor-Owned Electric Utilities" (five years).
- Table 28, "Transmission and Distribution Systems for Major Investor-Owned Electric Utilities" (five years).
- Table 43, "Transmission and Distribution Systems by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 45, "Expenditures for Research, Development, and Demonstration by Major Investor-Owned Electric Utility Within State" (five years).
- Table 46, "Investments in Environmental Protection by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 47, "Expenditures for Environmental Protection by Major Investor-Owned Electric Utility Within State" (current year detail data).

Proposal 2 eliminates the publication of all data on transmission and distribution systems; on research, development, and demonstration; and on environmental protection. These data would still be collected by the FERC on the FERC Form 1, but would no longer be processed and published by the EIA.

Proposal 3: The investor-owned electric utility-specific data currently published in the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1, will be made available electronically, and only the summary and comparative tables would be published. The following electric utility-specific tables in the publication would be eliminated:

- Table 36, "Statement of Income and Retained Earnings by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 37, "Balance Sheet by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 38, "Statement of Cash Flows by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 39, "Number of Consumers, Sales, and Operating Revenue by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 40, "Electric Operation and Maintenance Expenses by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 41, "Utility Plant by Major Investor-Owned Electric Utility Within State" (current year detail data).
- Table 42, "Electric Energy Account by Major Investor-Owned Electric Utility Within State" (current year detail data).

Proposal 3 eliminates publication of electric utility-specific data on statement of income and retained earnings; balance sheet; statement of cash flows; number of consumers, sales and operating revenue; electric operation and maintenance expenses; utility plant; and electric energy account for investor-owned electric utilities. These data would still be collected by the FERC on the FERC Form 1 and could be requested in electronic form on a reimbursable basis from the EIA.

Proposal 4: The publicly owned electric utility-specific data currently published in the annual publication, Financial Statistics of Major Publicly Owned Electric Utilities, DOE/EIA–

0437/2, will be made available electronically, and only the summary and comparative tables would be published. The following electric utility-specific tables in the publication would be eliminated:

- Table 38, "Statement of Income by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 39, "Balance Sheet by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 40, "Electric Operation and Maintenance Expenses by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 41, "Electric Utility Plant by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 42, "Number of Consumers, Sales, and Operating Revenue by Major Publicly Owned Electric Utility Within State" (current year detail data).
- Table 43, "Electric Energy Account by Major Publicly Owned Electric Utility Within State" (current year detail data).

Proposal 4 eliminates the publication of electric utility-specific data on statement of income; balance sheet; electric operation and maintenance expenses; electric utility plant; number of consumers, sales, and operating revenue; and electric energy account for publicly owned electric utilities. These data would still be collected by the EIA on the Form EIA–412 (number of consumers, sales, and operating revenue data are collected on the Form EIA–861) and could be requested in electronic form on a reimbursable basis from the EIA.

Proposal 5: Eliminate the annual publication, Electric Plant Cost and Power Production Expense, DOE/EIA–0455, and publish selected tables of summary data listed below in the annual publication, Financial Statistics of Major Investor-Owned Electric Utilities, DOE/EIA–0437/1:

- Table 5, "Historical Plant Cost for Plants that Began Commercial Operating During (current year).
- Table 8, "Average Production Expenses for Hydroelectric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 10, "Average Production Expenses for Fossil-Fueled Steam-Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 14, "Average Production Expenses for Nuclear Steam-Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).
- Table 17, "Average Production Expenses for Gas Turbine and Small Scale Electric Plants Owned by Major Investor-Owned Electric Utilities" (currently six years, proposed to be five years).

Proposal 5 eliminates the publication of plant-specific information on physical characteristics, and operation and maintenance expenditures for selected electric power plants of various fuel types. The plant specific data proposed for elimination would still be collected by the FERC on the FERC Form 1. The above five summary tables are retained and transferred to another EIA publication. The information retained includes summary averages of production expenses, and costs of various types of new plants owned by major investor-owned electric utilities.

Proposal 6: Eliminate information on electricity transactions between utility ownership classes and regions in the EIA publication, Electric Trade in the United States, DOE/EIA–0531. Also, two data collection surveys which gather and publish information on wholesale energy purchases, sales, and wheeling aggregated to the utility level will be modified. The modification results in the elimination of the following tables:

- Table 5, "Intra- and Interregional Purchases and Sales For Resale by Selected Ownership Classes", (summary data).
- Table 6, "Firm and Nonfirm Purchases and Sales for Resale by Investor-Owned Utilities by NERC Regions", (summary data).
- Table 7, "Shifts in 19xx Data between Old and New Publication Methodology by NERC Region", (summary data).
- Table 13, "Electricity Wheeling by All Ownership Classes to Investor-Owned Utilities by NERC Region", (summary data).
- Table 15, "Receipts by Investor-Owned Utilities Within and Between NERC Regions", (summary data).
- Table 16, "Deliveries by Investor-Owned Utilities Within and Between NERC Regions", (summary data).
- Table 22, "Electricity Purchases by Investor-Owned Utilities Not Reported to the Federal Energy Regulatory Commission", (summary data).
- Table 23, "Electricity Wheeling by Investor-Owned Utilities", (detail data).
- Table 24, "Electricity Wheeling to Investor-Owned Utilities", (detail data).
- Table 31, "Electricity Purchases by Publicly Owned Utilities Not Reported on the Form EIA–412", (detail data).
- Table 33, "Electricity Purchases by the Power Supply Segment of Cooperative Borrowers", (detail data).
- Table 34, "Electricity Purchases by the Distribution Segment of Cooperative Borrowers" (detail data).
- Table 35, "Electricity Purchases by Electrical Cooperatives Not Reported in the Rural Electrification Administration" (detail data).

Additionally, Tables 8 through 10, 17, 19 through 21, and 25 through 30 would be reduced to a summary total column and/or row of data.

Proposal 6 results in the publication of wholesale energy purchases, sales, exchanges, and wheeling data aggregated for individual electric utilities and for an ownership class. Modifications would be made to two surveys for the implementation of this option. The Form EIA–861, "Electric Utility Report," currently collects information on wholesale energy purchases, sales, exchanges, and wheeling aggregated to the utility level. The Form EIA–861 would be revised to distinguish between requirement and nonrequirement sales and purchases and to include the total costs and revenue associated with purchases, sales, exchanges, and wheeling. Additionally, the EIA would eliminate the Sales of Electricity for Resale (Schedule V) and Purchased Power and Power Exchanges (Schedule VII) from the Form EIA–412, "Annual Report of Public Electric Utilities." There would no longer be electric trade data available for publicly owned electric utilities at the individual transaction level. To obtain data on individual transactions by investor-owned electric utilities, analysts would have to examine the FERC Form 1 collected by the FERC.

III. Request for Comments

Users of EIA's electric power information and other interested parties should comment on the proposals outlined above. The following general guidelines are provided to assist in the preparation of responses. Please be specific in your comments with regard to the proposed modifications.

A. Do you use the data proposed for elimination from the publications? (Be specific as to which data you use.)

B. For what purpose(s) do you use the data? Be specific.

C. What effect would there be on you if the data were no longer published?

D. Are there alternate sources of data? If so: how do you use them; what are their deficiencies; what are their strengths; and what effect, if any, will the use of the alternative data have on you?

E. Do you have alternative proposals for collecting or for publishing information to aid in the analysis of electric power issues.

Comments submitted in response to this notice will be considered a matter of public record and will be used by EIA in the determination of whether to continue publishing the data indicated.

Statutory Authorities: Sections 3506 (a) and (c)(1), Paperwork Reduction Act of 1980, as amended, Public Law 96–511, 44 U.S.C. 3506 (a) and (c)(1).

Issued in Washington, DC March 12, 1993.

L.A. Pettis,

Acting Administrator, Energy Information Administration.

[FR Doc. 93–6382 Filed 3–18–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 199–071]

South Carolina Public Service Authority; Notice of Availability of Environmental Assessment

March 15, 1993.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to construct and operate an intake structure and pump station at Lake Moultrie within the Santee-Cooper Project. The project is located on the Santee River, in Berkeley County, South Carolina. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6360 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

Meeting of FERC Natural Gas Pipeline Competition Task Force

March 12, 1993.

The next meeting of the above-mentioned Task Force will be held:

Date: Friday, March 19, 1993.
Time: 10 a.m.
Place: Hyatt Regency O'Hare, SAS Room, 9300 West Bryn Mawr, Rosemont, Illinois 60018. (708) 696–1234.

The focus of this meeting will be to continue dialogue on the areas of pipeline competition. The meeting will be open to the public. For additional information, interested parties may call Mark Shaffer at (202) 208–0388.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6348 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP91–2704–004]

Blue Lake Gas Storage Co.; Motion To Waive, Proposed Effective Date and Tariff Filing Pursuant to Order Issuing Certificate of Public Convenience and Necessity

March 12, 1993.

Take notice that on March 1, 1993, Blue Lake Gas Storage Company (Blue Lake) tendered a motion requesting the Commission waiver its requirement that Blue Lake's tariff sheets be in full compliance with Order No. 636 prior to becoming effective. The motion also notifies the Commission of the proposed commencement of storage operations on April 1, 1993.

Also take notice that on March 4, 1993, Blue Lake tendered for filing its FERC Gas Tariff, Original Volume No. 1, to become effective April 1, 1992.

Blue Lake states that Original Volume No. 1 is being filed in compliance with Ordering Paragraph (A) of the Commission's order of September 14, 1992 in Docket No. CP91–2704–002, which required Blue Lake to file its tariff not less than 30 nor more than 60 days prior to the requested in-service date.

Blue states that copies of the filings were served on Blue Lake's customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests shall be filed on or before March 19, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6361 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ93–6–4–000]

Granite State Gas Transmission, Inc.; Notice of Proposed Changes in Rates

March 12, 1993.

Take notice that on March 8, 1993, Granite State Gas Transmission, Inc. (Granite State) 300 Friberg Parkway, Westborough, Massachusetts 01581, filed Twenty-Fifth Revised Tariff Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on April 1, 1993.

According to Granite State, the revised sales rates on Twenty-Fifth Revised Tariff Sheet No. 21 reflect Granite State's regular quarterly purchased gas adjustment for the first quarter of 1993 based on projected gas costs and sales for the quarter.

Granite State indicates that the revised sales rates on Twenty-Fifth Revised Sheet No. 21 are applicable to Granite State's wholesale sales to its two affiliated distribution company customers: Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities).

Granite State states that copies of its filing were served upon its customers Bay State Gas Company and Northern Utilities, Inc. and the regulatory commissions of the states of Maine, New Hampshire and Massachusetts.

Any person desiring to be heard or to make protest with reference to 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 Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before March 19, 1993. 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 to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6350 Filed 3–18–93; 8:45 am]

BILLING CODE 6217–01–M

[Docket No. RP93-91-000]

Louisiana Natural Gas Pipeline, Inc.; Petition for Declaratory Order

March 12, 1993.

Take notice that on March 4, 1993, Louisiana Natural Gas Pipeline Incorporated (LNGP) filed a petition for declaratory order. LNGP states that on January 21, 1993, Columbia Gulf Transmission Company (Columbia Gulf) filed suit against LNGP under Civil Action No. 93-0239, in the United States District Court for the Eastern District of Louisiana, seeking to recover an alleged imbalance penalty for the seasonal period ending April 1, 1991, under the Columbia Gulf ITS-2 Tariff. LNGP requests that the Commission "accept jurisdiction of this matter" and answer the following questions, as framed by LNGP, and arising out of their dispute:

1. Whether Columbia Gulf is permitted, for purposes of calculating seasonal penalties, to make unilateral, retroactive adjustments to a shipper's gas account in Columbia Gulf's favor, covering the period November, 1987, through January, 1991, subsequent to the written February 15 notice of imbalance status required to be given to the shipper by subsection 6(a)(6) of the ITS-2 Tariff?

2. Do any of Columbia Gulf's imbalance statements comply with the formal February 15 notice of imbalance status required to be given to LNGP by subsection 6(a)(6) of the ITS-2 Tariff?

3. May Columbia Gulf impose an overtender or undertender penalty under its ITS-2 Tariff upon shippers such as LNGP who have specifically relied upon erroneous Columbia Gulf gas imbalance statements and other written information furnished to the shippers by Columbia Gulf in deciding what sales and/or deliveries to make in order to bring their previously reported gas imbalances within the permissible tolerance levels established by Columbia Gulf?

4. Does Columbia Gulf have the right, under its ITS-2 Tariff, to make retroactive, unilateral adjustments to a shipper's gas account that are not agreed to by the shipper?

5. May Columbia Gulf impose imbalance penalties based upon retroactive, unilateral adjustments that it attempts to make to a shipper's gas account (a) before the commencement of, (b) during, or (c) after the conclusion of the 45-day adjustment period immediately preceding each seasonal penalty date?

6. May Columbia Gulf impose a penalty on a shipper based upon a Columbia Gulf imbalance report purportedly furnished to the shipper in accordance with the requirements of subparagraph 6(a)(6) of Columbia Gulf's ITS-2 Tariff, when Columbia Gulf subsequently concedes that its imbalance report was grossly inaccurate?

7. May Columbia Gulf impose a penalty upon a shipper based upon unilateral adjustment to a shipper's deliveries and sales covering a specific time period, subsequently go back and readjust the shipper's deliveries and sales for the same time period, and then charge another penalty based upon its subsequent readjustment?

8. Must Columbia Gulf allow a shipper a reasonable period of time in which to adjust for any permissible, retroactive, unilateral adjustments made by Columbia Gulf to a shipper's gas account, prior to attempting to impose any penalty, and, if so, what constitutes a reasonable period of time?

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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before April 12, 1993. 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 in the public reference room. Answers to LNGP's pleading shall also be due on or before April 12, 1993.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6349 Filed 3-18-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP91-2322-004]

Paiute Pipeline Co.; Notice of Change in FERC Gas Tariff

March 11, 1993.

Take notice that on February 9, 1993, Paiute Pipeline Company (Paiute) tendered for filing 1st Rev Sub First Revised Sheet No. 130 to be part of its FERC Gas Tariff, First Revised Volume No. 1-A.

Paiute states that it is submitting the proposed tariff sheet in order to reflect on a current basis in its tariff the contract entitlement quantities that will become effective upon the in-service date of a system capacity expansion project that was authorized by the Commission in Docket No. CP91-2322.

Paiute requests that the tendered tariff sheet be accepted for filing to become effective March 1, 1993.

Paiute states that copies of the filing were served upon all of Paiute's customers and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests should be filed on or before March 18, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93-6357 Filed 3-18-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-166-000]

Providence Gas Co., Notice of Compliance Filing for Rate Election Pursuant to Section 284.224(e)(2)

March 11, 1993.

Take notice that on February 1, 1993, Providence Gas Company made a compliance filing pursuant to its blanket certificate in Docket No. CP92-166 which authorized it to engage in the sale, transportation, or assignment of natural gas subject to the Commission's jurisdiction under the Natural Gas Act to the same extent and in the same manner that intrastate pipelines are authorized to engage in such activities by subparts C, D, and E of part 284 of the Commission's regulations.

Providence Gas states in its filing that since it has no rates on file with the Rhode Island Public Service Commission for city gate transportation service, it proposes to implement a transportation rate of $1.4926 per Mcf pursuant to § 284.224(e)(2) of the Commission's regulations. The derivation of the proposed rate is set forth in an appendix to the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance

with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed within 15 days following publication of this notice in the **Federal Register**. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. A copy of the filing is a file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–6358 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP92–285–001]

Richfield Gas Storage System; Notice of Filing of Initial FERC Gas Tariff

March 12, 1993.

Take notice that on March 11, 1993, Richfield Gas Storage System, (Richfield) filed its initial FERC Gas Tariff, Volume No. 1, Sheets 1 to 45. Richfield seek authorization to make its initial tariff effective on April 1, 1993.

Richfield is a general partnership organized and existing under the laws of Oklahoma. It has constructed an underground natural gas storage facility in Morton County, Kansas under certificates of public convenience and necessity issued by the Commission on June 16, 1992 in Docket No. CP92–285–000. That Order required that Richfield must store and transport natural gas under subpart G of part 284 of the Commission's Regulations and file its initial FERC Gas Tariff before it can begin service under its certificates. The Commission also authorized Richfield to establish market-based rates for its services.

Richfield's initial FERC Gas Tariff contains its:

Preliminary Statement
Facility Map
Schedule of Rates
FSS–1 Rate Schedule for Firm Storage Service
Form of Service Agreement applicable to the FSS–1 Rate Schedule
ISS–1 Rate Schedule for Interruptible Storage Service
Form of Service Agreement applicable to the ISS–1 Rate Schedule
General Terms and Conditions
Index of Purchasers
—City of New Ulm
—Fremont Department of Utilities
—Michigan Gas Company
—Midwest Gas, A Division of Midwest Power Systems, Inc.

The FSS–1 Rate Schedule includes provisions for capacity release and right of first refusal.

Because Richfield has established market-based rates, it seeks waiver of the requirements of part 154 of the Commission's Regulations so it won't have to file cost and financial data which show how its rates were derived. For the same reason, Richfield seeks waiver of the Commission's Regulations so it won't have to file its initial tariff on electronic media.

Richfield says that copies of this filing were served on the company's jurisdictional customers and affected state commission as required by § 154.16(b) of the Commission's Regulations.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before March 22, 1993. 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. 93–6362 Filed 3–18–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–4597–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 1, 1993 through March 5, 1993 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1993 (57 FR 12499).

Draft EISs

ERP No. D–AFS–L61195–OR Rating LO, Elk Wild and Scenic River Management Plan, Implementation, Elk River, Siskiyou National Forest, Power Ranger District, Curry County, OR.

Summary: EPA had no objections to the proposed project.

ERP No. D–AFS–L65182–OR Rating EO2, East End Salvage Timber Sales and Restoration Projects, Implementation, Umatilla National Forest, Heppner Ranger District, Grant and Morrow Counties, OR.

Summary: EPA had environmental objections to the project based on potential water quality standards violations; the lack of an air quality impacts analysis; the need for complete monitoring and mitigation discussions; and the need for a broader cumulative effects analysis. Additional information is requested to clarify compliance with state water quality standards; to disclose air quality impacts related to prescribed burning; to outline monitoring and mitigation strategies; and to expand the cumulative effects analysis.

ERP No. D–AFS–L65187–AK Rating EC2, North Revilla Project, Long-Term Timber Sale Contract, Implementation, Tongass National Forest, Ketchikan Administrative Area, Ketchikan Ranger District, Revillagigedo Island, AK.

Summary: EPA had environmental concerns with the project based primarily on impacts to water quality. EPA was concerned that assuring that best management practices are implemented without adequate water quality monitoring may not ensure that the Alaska Water Quality Standards (WQS) are being met. EPA believed that WQS may be exceeded as a result of the proposed sale. Additional information was needed on effectiveness monitoring from the water quality effects of timber harvest and road construction.

Summary: ERP No. D–FHW–C40128–NY Rating EC2, I–90/I–8 Connector to Route 4/43 at Washington Avenue Transportation Improvements, Funding and COE Permits, Town of North Greenbush, Rensselaer County, NY.

Summary: EPA expressed concerns for potential impacts to wetlands and surface water quality and asked for additional information in the final EIS to address these issues.

ERP No. D–FHW–F40327–WI Rating EC2, US 151/Fond du Lac Bypass Construction, US 151 and CTH "D" to US 151 and WI–149, Funding, Fond du Lac County, WI.

Summary: EPA expressed concern regarding wetland and noise impacts. EPA believed alternative 1 would have the least wetland impact. A discussion of additional noise mitigation was also requested.

ERP No. D–FTA–B54007–MA Rating EC2, South Boston Piers/Fort Point

Channel Transit Project, Boylston Station to the World Trade Center, Funding, MA.

Summary: EPA expressed concern about the lack of information in the draft EIS concerning the air quality analysis and indirect/cumulative impacts. EPA requested additional information be included in the final document.

ERP No. DS–FHW–F40170–MN Rating EO2, TH–610 Construction, I–94 in Maple Grove to TH–252 in Brooklyn Park, Additional Funding and COE Section 404 Permit, Hennepin County, MN.

Summary: EPA's objections would be resolved if the final EIS indicates that feasible "Build" alternatives have been described and evaluated, and that the alternative with the least potential for resulting in adverse impacts to wetlands and sensitive noise receptors had been chosen for implementation. In addition, the FEIS should also discuss the issues of minimization and compensation for unavoidable wetlands impacts, and provision of cost-effective, feasible mitigation for project-associated noise impacts on sensitive receptors.

ERP No. D1–FHW–F40329–MN Rating EO2, Minnesota Trunk Highway 371 Brainerd Bypass Relocation, from TH–371 in Barrows to TH–210 in Baxter, Funding and Section 404 Permit, Crow Wing County, MN.

Summary: EPA's objections for the Tier 1 Draft EIS would be satisfied when impacts to ecosystems such as savanna and prairie are minimized to the greatest extent practicable through the alternative selection process, when additional alternatives are investigated such as a near-in Brainerd Bypass, and when purpose and need information is provided.

Other

ERP No. LD–AFS–L61194–OR Rating LO, Steamboat Creek Wild and Scenic Suitability Study, Designation, North Umpqua River, Umpqua National Forest, Douglas and Lane Counties, OR.

Summary: EPA had no objections to the proposed project.

Dated: March 15, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–6402 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–P

[ER–FRL–4597–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 or (202) 260–5075.

Weekly Receipts of Environmental Impact Statements Filed March 8, 1993 Through March 12, 1993 Pursuant to 40 CFR 1506.9.

EIS No. 930076, Draft EIS, BLM, MT, Big Dry Land and Resource Management Plan, Implementation, Miles City District, Several Counties, MT, Due: June 18, 1993, Contact: Al Kutt (406) 232–7000.

EIS No. 930077, Final EIS, FHW, UT, US–89/Logan Canyon Highway, Improvements, Right Fork 9 miles East of Logan to Garden City, Funding, 404 Permit and Special Use Permit, Wasatch-Cache National Forest, Cache and Rich Counties, UT, Due: May 3, 1993, Contact: William Gedris, P.E. (801) 963–0123.

EIS No. 930078, Draft EIS, BLM, FL, Miccosukee Indian Reservation Exploratory Well Drilling, Lease and Permit, City of Fort Lauderdale, Broward County, FL, Due: May 18, 1993, Contact: Robert V. Abby (601) 977–5400. The U.S. Department of Interior's Bureau of Land Management and Bureau of Indian Affairs are Joint Lead Agencies on this project.

EIS No. 930079, Draft EIS, AFS, ID, Salmon River Road Improvement Project, Development Road No. 30 from North Fork to Corn Creek, Salmon National Forest, North Fork Ranger District, Custer and Lemhi Counties, ID, Due: May 3, 1993, Contact: Rogers Thomas (208) 865–2383.

EIS No. 930080, Final EIS, AFS, CO, Trout Mountain Analysis Area Timber Harvest, Road Construction and Aspen Management Plan Projects, Implementation, Trout and Decker Creeks, Del Norte Ranger District, Rio Grande National Forest, Rio Grande and Mineral Counties, CO, Due: April 19, 1993, Contact: Thurman H. Wilson (719) 852–5941.

EIS No. 930081, Final EIS, USA, AL, KY, MD, IL, CA, Redstone Arsenal Base Realignment, Transfer of Activities from US Army Armament, Munitions and Chemical Command, Rock Island, IL; Lexington-Bluegrass Army Depot, KY; Presido Army Base, San Francisco, CA and Harry Diamond Laboratories, Adelphi, MD to the Redstone Arsenal Base, Madison County, AL, Due: April 19, 1993, Contact: Glen Coffee (205) 690–2729.

EIS No. 930082, Final EIS, UAF, SC, Myrtle Beach Air Force Base Disposal and Reuse, Implementation, Horry County, SC, Due: April 19, 1993, Contact: Ltc. Gary Baumgartel (210) 536–3869.

Dated: March 16, 1993.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 93–6403 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–P

[OPPTS–59319; FRL–4574–2]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of application for test marketing exemptions (TMEs) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated these applications as TME–93–9 and TME–93–10. The test marketing conditions are described below.

EFFECTIVE DATE: March 11, 1993.

FOR FURTHER INFORMATION CONTACT: Edna G. Pleasants, New Chemicals Branch, Chemical Control Division (TS–794), Office of Pollution Prevention and Toxics, Environmental Protection Agency, rm. E–611, 401 M St. SW., Washington, DC 20460, (202) 260–4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–9 and TME–93–10. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in these applications and in this notice must be met.

Inadvertently, notice of receipt of the applications was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the Public Reading Room NE G004 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–93–9 and TME–93–10. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TMEs. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

TME–93–9

Date of Receipt: February 8, 1993.

Close of Review Period: March 24, 1993. The extended comment period will close April 5, 1993.

Applicant: Westvaco Corporation.

Chemical: (S) Distillates (petroleum), hydrotreated heavy naphthenic, sulfonic acids, oil-soluble, sodium salt.

Use: (S) Metal Cutting Lubricant Additive.

Production Volume: 1,500,000 kg/yr.

Number of Customers: 1.

Test Marketing Period: 365 days, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

TME–93–10

Date of Receipt: February 8, 1993.

Close of Review Period: March 24, 1993. The extended comment period will close April 5, 1993.

Applicant: Westvaco Corporation.

Chemical: (S) Distillates (petroleum), hydrotreated heavy naphthenic, sulfonic acids, water-soluble, sodium salt.

Use: (G) Defoamer Processing Aid.

Production Volume: 500,000 kg/yr.

Number of Customers: Confidential.

Test Marketing Period: 365 days, commencing on first day of commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: March 11, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–6389 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–140207; FRL–4578–1]

Temporary Closure of the TSCA Confidential Business Information Center and the TSCA Nonconfidential Information Center

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is issuing this notice to announce that the Toxic Substances Control Act (TSCA) Confidential Business Information Center (CBIC) and the TSCA Nonconfidential Information Center (NCIC), also known as, TSCA Public Docket Office, will close temporarily in order to move both facilities to new locations within EPA Headquarters. New Chemical Program submissions will be received during that period. Additionally, TSCA materials will not be available to the public.

DATES: The CBIC will be closed from 8 a.m., March 22, 1993, until 8 a.m., March 30, 1993. The NCIC will close from 8 a.m., March 22, 1993, and remain closed until 8 a.m., March 31, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, TSCA Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: The TSCA CBIC and the TSCA NCIC will close temporarily in order to move both facilities to new locations within EPA Headquarters. The TSCA CBIC will reopen March 30, 1993, at EPA Headquarters in room ET G–99. The TSCA NCIC will reopen on March 31, 1993, at EPA Headquarters in room ET G–102. The telephone numbers and EPA mail codes for both offices will remain the same.

New Chemical Program submissions will be received during that period. During the period that the TSCA NCIC will be closed, no TSCA materials will be available to the public.

All future TSCA submissions should be addressed to the U.S. Environmental Protection Agency, OPPT Document Control Officer, Attn: TSCA Document Receipts (TS–790), ET G–99, 401 M St., SW., Washington, DC 20460.

Dated: March 16, 1993.

Linda A. Travers,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–6514 Filed 3–18–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL RESERVE SYSTEM

Comerica Incorporated; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a

hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 6, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan; to engage *de novo* through its subsidiary, ET–92 Limited Dividend Housing Association Limited Partnership, Detroit, Michigan, in community development activities by making an equity investment in a low income housing project pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6343 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

Fourth Financial Corporation; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 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)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than April 12, 1993.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Fourth Financial Corporation, Wichita, Kansas; to acquire Bancshares of Woodward, Inc., Woodward, Oklahoma, and thereby indirectly acquire The Bank of Woodward, Woodward, Oklahoma.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6342 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

Samuel Guy Maddox, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 8, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Samuel Guy Maddox, Blakely, Georgia; to retain 25 percent of the voting shares of First State Bancshares of Blakely, Inc., Blakely, Georgia, and thereby indirectly acquire First State Bank of Blakely, Blakely, Georgia.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Jess A. Fields, Humble, Texas, to acquire 11.97 percent; Robert N. Murray, Houston, Texas, to acquire 0.79 percent; Ralph S. O'Connor, Houston, Texas, to acquire 5.98 percent; Stanley D. Stearns, Houston, Texas, to acquire 10.77 percent; John H. Lindsey, Houston, Texas, to acquire 2.39 percent; Schuyler M. Tilney, Houston, Texas, to acquire 1.20 percent; Endre Rosejoe, London England, to acquire 11.97 percent; William Temple Webber, Jr., Houston, Texas, to acquire 5.98 percent; Louis B. Cushman, Houston, Texas, to acquire 5.98 percent; John H. Styles, Houston, Texas, to acquire 2.99 percent; Richard K. Gordon, Houston, Texas, to acquire 2.99 percent; Peder Monsen, Houston, Texas, to acquire 1.50 percent; Albert B. Fay, Jr., Houston, Texas, to acquire 2.00 percent; Sidney S. McClendon, III, Houston, Texas, to acquire 1.20 percent; Steven J. Gibson, Magnolia, Texas, to acquire 2.39 percent; Clive Runnells, Houston, Texas, to acquire 0.60 percent; and Thomas P. Runnells, Houston, Texas, to acquire 0.60 percent of the voting shares of Crosby Bancshares, Inc., Crosby, Texas, and thereby indirectly acquire Crosby State Bank, Crosby, Texas.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6344 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

The Royal Bank of Scotland Group, plc, 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 April 8, 1993.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. The Royal Bank of Scotland Group, plc, Edinburgh, Scotland, United Kingdom, and The Royal Bank of Scotland, plc, Edinburgh, Scotland, United Kingdom; to acquire Standard Chartered Equitor Asset Management NA, Inc., Boston, Massachusetts, and Union Investors Asset Management Company, Inc., Boston, Massachusetts, and thereby engage in portfolio investment advisory services for securities, including the provision of discretionary asset management services to institutional customers pursuant to § 225.25(b)(4)(iii) of the Board's Regulation Y.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First Union Corporation, Charlotte, North Carolina; to acquire Georgia Federal Bank, FSB, Atlanta, Georgia, and thereby engage in owning and operating a savings and loan association pursuant to § 225.25(b)(9); providing data processing and transmission services to federally insured depository institutions who participate in Company's neutral shared electronic funds transfer network and providing related services, including the administration and promotion of the network and providing data processing, transmission and related services to other EFT networks pursuant to § 225.25(b)(7); providing bank management consulting advice to depository institutions pursuant to § 225.25(b)(11); engaging in credit life reinsurance agency and underwriting activities pursuant to § 225.25(b)(8)(i); and performing real estate appraisals pursuant to § 225.25(b)(13) of the Board's Regulation Y.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. The Merchants Holding Company, Winona, Minnesota; to acquire Mortgage Options of La Crosse, Inc., La Crosse, Wisconsin, through a *de novo* nonbank subsidiary, Merchants Mortgage Company of Minnesota, La Crosse, Wisconsin, which will engage in originating, selling, and servicing mortgage loans in La Crosse, Wisconsin, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 15, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6341 Filed 3–18–93; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91P–0175/CPI]

Hercules, Inc.; Citizen Petition; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening the comment period for the citizen petition from Hercules, Inc., which requests that the agency establish a common or usual name for Philippine natural grade carrageenan and name the product "Alkali-treated carrageenophyte." FDA is taking this action in response to requests to allow additional time for public comment.

DATES: Written comments by May 18, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of November 2, 1992 (57 FR 49483), FDA announced that two related food additive petitions had been filed, one (FAP 1A4264; Docket No. 92F–0376) on behalf of the International Food Additives Council, c/o 1201 Pennsylvania Ave. NW., P.O. Box 7566, Washington, DC 20044, and one (FAP 1A4265; Docket No. 92F–0377) on behalf of FMC Corporation-Marine Colloids Division, c/o 1150 17th St. NW., Washington, DC 30036. In that filing notice, FDA also requested comments on a related citizen petition that had been submitted under § 10.30 (21 CFR 10.30) by Hercules, Inc. (91P–0175/CPI). Interested persons were given until January 4, 1993, to comment on the citizen petition.

The agency has received requests from the International Food Additives Council, the Federation of European Food Additives and Food Enzymes Industries, Centre de Liaison des Industries de Traitement des Algues Marines de la C.E.E. (Liaison Centre of the Industries for the Treatment of Seaweeds in the European Economic Community), and the National Turkey Federation, to reopen the comment period to permit an additional 60 days for comments.

Because the four requests for extension of the comment period were submitted to the dockets for the two food additive petitions concerning carrageenan as well as the docket for the citizen petition, the agency wishes to clarify that the comment period established in the November 2, 1992, filing notice applied only to comments on the citizen petition. Indeed, the food additive regulations in 21 CFR part 170 do not prescribe a formal comment period following a notice of filing for a food additive petition. After careful consideration, the agency has concluded that it is in the public interest to allow additional time for interested persons to submit comments on the citizen petition. Accordingly, the comment period is reopened until May 18, 1993.

Interested persons may, on or before May 18, 1993, submit to the Dockets Management Branch (address above) written comments regarding the citizen petition. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The citizen petition and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 12, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–6371 Filed 3–18–93; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced:

Gastroenterology and Urology Devices Panel of the Medical Devices Advisory Committee

Date, time, and place. April 15, 1993, 8:30 a.m., First Floor conference rm., Piccard Bldg., 1390 Piccard Dr., Rockville, MD.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4 p.m.; Mark D. Kramer, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1194.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before March 30, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss draft guidance documents for the content of premarket approval (PMA) applications for testicular prostheses and penile inflatable implants. FDA intends to call for safety and effectiveness data on these devices as part of an ongoing review of pre-1976, class III devices. The draft guidance documents to be discussed address the safety and effectiveness information FDA believes is necessary to support future PMA applications for these devices.

Food Advisory Committee

Date, time, and place. April 15 and 16, 1993, 8 a.m., Holiday Inn Hotel, 1489 Jefferson Davis Hwy., Arlington (Crystal City), VA.

Type of meeting and contact person. Open committee discussion, April 15, 1993, 8 a.m. to 8:30 a.m.; open public hearing, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 6 p.m.; open committee discussion, April 16, 1993, 8 a.m. to 3:45 p.m.; open public hearing, 3:45 p.m. to 4:45 p.m., unless public participation does not last that long; Lynn A. Larsen, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4727 or Catherine M. DeRoever, Advisory Committee Staff, 202–205–4251.

General function of the committee. The committee provides advice on emerging food safety, food science, and nutrition issues that FDA considers of primary importance in the next decade.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 7, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments. If necessary, comments may be limited to 5 minutes.

Open committee discussion. On the morning of April 15, 1993, the Folic Acid Subcommittee will review options for regulation of folic acid that were developed subsequent to the subcommittee's deliberations at its November 23 and 24, 1992, meeting. On the afternoon of April 15, 1993, the committee will continue working group discussions on: (1) The agency's food research activities, (2) the scientific and technical expertise needed to support the agency's regulatory mission, and (3) the criteria for risk-based inspections. The committee will also be briefed on conflict of interest and other matters pertaining to the functioning of advisory committees within FDA. On April 16, 1993, the committee will act on the Folic Acid Subcommittee reports, will be briefed on current high-priority activities in the Center for Food Safety and Applied Nutrition, and will continue with its working group discussions.

Pulmonary-Allergy Drugs Advisory Committee

Date, time, and place. April 26, 1993, 8 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 8:30 a.m., unless public participation does not last that long; open committee discussion, 8:30 a.m. to 1 p.m.; open public hearing, 1 p.m. to 1:30 p.m., unless public participation does not last that long; open committee discussion, 1:30 p.m. to 6 p.m.; Leander B. Madoo, Center for Drug Evaluation and Research (HFD–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 12, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss: (1) NDA 19–835, cetirizine HCL, Pfizer; and (2) NDA 19–806, Semprex-D (acrivastine and pseudoephedrine HCL), Burroughs-Wellcome.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. April 29 and 30, 1993, 8 a.m., conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, April 29, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; open public hearing, April 30, 1993, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD–

120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 22, 1993, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On April 29, 1993, the committee will discuss the safety and effectiveness of Risperidal® (risperidone), NDA 20–272, Janssen Pharmaceuticals, for use in the treatment of psychotic disorders. On April 30, 1993, the committee will discuss the safety and effectiveness of Effexor® (venlafaxine), NDA 20–151, Wyeth-Ayerst, for use in the treatment of depression.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 12, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–6370 Filed 3–18–93; 8:45 am]

BILLING CODE 4160–01–F

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96–511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on Friday, February 19, 1993.

(Call Reports Clearance Officer on (410) 965–4142 for copies of package)

1. Questionnaire to Determine the Status of Automation in the State DDSs—0960–NEW. The information on form SSA–54–BK will be used by the Social Security Administration (SSA) to determine what automated services are now available in the State offices which make disability determinations for SSA. The respondents will be staff members of these offices.

Number of Respondents: 54
Frequency of Response: 1
Average Burden Per Response: 5 hours
Estimated Annual Burden: 270 hours

2. Graduating to Independence (GTI) Questionnaires—0960–NEW. The information on forms SSA–64, SSA–65 and SSA–66 will be used by the Social Security Administration (SSA) to evaluate the GTI presentation package. The GTI package is a work incentives initiative of SSA which explains the effect of employment on entitlement to disability benefits. The respondents will be young people with disabilities, their families and the professionals who work with them.

Number of Respondents: 7,500
Frequency of Response: 1
Average Burden Per Response: 15 minutes
Estimated Annual Burden: 1,875 hours

3. Request for Hearing—0960–0269. The information on form HA–501 is used by the Social Security Administration to document an individual's request for a hearing on an unfavorable determination concerning his or her benefits. The respondents are such individuals who request a hearing.

Number of Respondents: 473,500
Frequency of Response: 1
Average Burden Per Response: 10 minutes
Estimated Annual Burden: 78,917 hours

4. Representative Payee Questionnaires—0960–0493. The information on forms SSA–622 and SSA–6220 is used by the Social Security

Administration to load the Master Representative Payee File with the information necessary to comply with the Omnibus Reconciliation Act of 1990. Approval is requested for telephone contacts to obtain the information asked for on forms SSA–622 and SSA–6220 from those representative payees who did not provide this information when it was originally requested by mail. The respondents are representative payees who did not respond to the prior mailing of these forms.

Number of Respondents: SSA–622=410,000; SSA–6220=10,000
Frequency of Response: 1
Average Burden Per Response: 5 minutes; 25 minutes
Estimated Annual Burden: 34,166 hours; 4,166 hours

5. Statement Regarding the Inferred Death of an Individual by Reason of Continued and Unexplained Absence—0960–0002. The information on form SSA–723 is used to determine if the Social Security Administration may infer that a missing person is deceased. The respondents are individuals who know or are related to the missing person.

Number of Respondents: 3,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 1,500 hours

6. Petition to Obtain Approval of a Fee for Representing a Claimant before the Social Security Administration—0960–0104. The information on form SSA–1560 is used to determine if a representative is asking for a reasonable fee for representing a claimant before the Social Security Administration (SSA). The respondents are attorneys or other persons representing claimants before SSA.

Number of Respondents: 89,500
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 44,750 hours

7. Self-Employment/Corporate Officer Questionnaire—0960–0487. The information on Form SSA–4184 is used by the Social Security Administration to develop a claimant's earnings or corroborate his or her allegation of retirement when he or she is self-employed or a corporate officer. The respondents are claimants who need to support their allegation concerning earnings or employment.

Number of Respondents: 50,000
Frequency of Response: 1
Average Burden Per Response: 20 minutes
Estimated Annual Burden: 16,667 hours

8. Partnership Questionnaire—0960–0025. The information on form SSA–7104 is used by the Social Security Administration to evaluate partnerships to determine how partnership income should be apportioned for benefit purposes. The affected public consists of claimants for benefits who are involved in a partnership.

Number of Respondents: 12,350
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 6,175 hours

9. Farm Arrangement Questionnaire—0960–0064. The information on form SSA–7157 is used by the Social Security Administration to determine whether income derived from farm rental may be considered self-employment income for coverage purposes. The respondents are individuals who allege self-employment income from the rental of land for farming activities.

Number of Respondents: 38,000
Frequency of Response: 1
Average Burden Per Response: 30 minutes
Estimated Annual Burden: 19,000 hours

10. State Mental Institution Policy Review—0960–0110. The information on form SSA–9584 is used by the Social Security Administration to determine whether the institutions conform with applicable regulations on the use of benefits. The respondents are any State mental institution which serves as representative payee for a social security beneficiary.

Number of Respondents: 183
Frequency of Response: 1
Average Burden Per Response: 1 hour
Estimated Annual Burden: 183 hours
OMB Desk Officer: Laura Oliven

Written comments and recommendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3208, Washington, DC 20503.

Dated: March 12, 1993.

Nicholas E. Tagliareni,

Acting Reports Clearance Officer, Social Security Administration.

[FR Doc. 93–6176 Filed 3–18–93; 8:45 am]

BILLING CODE 4190–29–M

Rescission of Social Security Ruling

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Ruling (SSR) 70–42 Representative Payee—Exercise of Discretionary Authority to Select Payee—Legal Guardian As Payee.

SUMMARY: The Principal Deputy Commissioner of Social Security gives notice of the rescission of SSR 70–42.

EFFECTIVE DATE: March 19, 1993.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1711.

SUPPLEMENTARY INFORMATION: Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

SSR 70–42 was issued in 1970 and was published in the 1966–1970 Cumulative Edition of the Rulings, page 286. SSR 70–42 holds that the selection of a representative payee to receive benefit payments on behalf of a Social Security beneficiary who is not qualified to receive his own benefits is an exercise of discretionary authority reserved to the Secretary of Health, Education, and Welfare (now Health and Human Services) under the provisions of section 205(j) of the Social Security Act (the Act). Section 205(j) of the Act now provides that the beneficiary or his or her legal representative or legal guardian may appeal a determination that a representative payee is necessary and also the designation of a particular person to serve as the representative payee. The court cases cited in SSR 70–42 are based on the old language of the Act. Therefore, because SSR 70–42 is obsolete, we are rescinding it.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivors Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income)

Dated: March 5, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

[FR Doc. 93–6365 Filed 3–18–93; 8:45 am]

BILLING CODE 4190–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Public and Indian Housing

[Docket No. N–93–3592]

Submission of Proposed Information Collection to OMB; Survey of Vacancy Rates in Selected Low-Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies

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

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposal.

ADDRESSES: Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; or Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development (HUD), 451 Seventh Street SW., room 4178, Washington, DC 20410.

DATES: Comments due: March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of HUD, 451 Seventh Street SW., room 4178, Washington, DC 20410, Telephone (202) 708–0050. This is not a toll-free number. Copies of the documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of HUD has submitted to OMB, for expedited processing, an information collection package with respect to a "Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies." The survey is necessary for the administration of the Vacancy Reduction Program, which is authorized in section 14(p) of the Housing Act of 1937. It is also requested that OMB complete its review within six days.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

(1) *Title of the information collection proposal:* Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies.

(2) *Office of the agency to collect the information:* Office of the Assistant Secretary for Public and Indian Housing.

(3) *Description of the need for the information and its proposed use:* The Vacancy Reduction Program requires all public housing agencies, (PHAs) except Indian housing authorities, which (a) have a vacancy rate exceeding twice the national average vacancy rate among PHAs, (b) are troubled or mod-troubled under section 6(j) of the Housing Act of 1937, or (c) for which a receiver has been appointed pursuant to section 6(j)(3) of the Housing Act of 1937 to participate in the Vacancy Reduction Program. As a part of the program, all such agencies are required to have an on-site assessment of the extent and causes of their vacancy problem by a team of knowledgeable observers. $94 million has been made available for the program in FY 1993.

The Department wishes to focus the FY 1993 funding on PHAs with serious problems which can be reduced substantially, relatively quickly, with limited funds. The survey will be used to identify such characteristics, which will then be used as threshold factors for the FY 1993 funding.

Assessments will be scheduled for PHAs meeting the threshold factors, sufficiently in advance of the due date stated in the FY 1993 Notice of Funds Availability so that assessments can be useful in preparing the PHA plans.

The Department expects that analysis of the survey responses will provide a sufficient basis for identifying appropriate threshold factors for FY 1993 and for determining which PHAs meet those threshold factors. However, once the factors have been determined, a Federal Register Notice will be published so that any PHA which has not responded to the survey, but meets the threshold factors, may request an assessment.

(4) *Agency form numbers:* Not necessary.

(5) *Members of the public who will be affected by the proposal:* Approximately 250 PHAs.

(6) *How frequently information submissions will be required:* One time only.

(7) *An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response:* 250 PHAs will respond to the survey once, and responses will average approximately one hour apiece, for a total of 250 burden hours.

(8) *Type of request:* First and only time.

(9) *The name and telephone number of an agency official familiar with the proposal:* Janice D. Rattley, Office of Public and Indian Housing, (202) 708–1800.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 35359(d).

Dated: March 12, 1993.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

Supporting Statement: Survey of High-Vacancy Public Housing Agencies (PHAS)

A. Justification

1. *Legislative Authorization.* Section 14(p) of the Housing Act of 1937 requires any public housing agency which has a vacancy rate exceeding twice the national average to participate in a program of vacancy reduction. That program includes a mandatory on-site assessment by a team of HUD staff and independent experts and development of a plan to eliminate the vacancies. Section 115 of the Housing and Community Development Act of 1992 provided funding for the program. However, because the funding is limited to $94 million for all 220 eligible agencies and because assessment of all eligible agencies will be extremely costly and time-consuming, it is necessary for the Department to focus on a limited number of PHAs for which assessments can be performed prior to submission of applications for the FY 1993 competition. The survey is critical to identification of factors that can be used to identify that limited number of PHAs.

2. *Management Function of the Survey.* The survey will be used by Public and Indian Housing to identify the causes of the vacancies and the estimated costs of rehabilitation within the 220 high vacancy PHAs. With that information, we expect to be able to limit FY 1993 funding to PHAs with serious problems which we can reduce substantially with limited funds. The objective is to reoccupy as many units as possible with the funds available. Working with the public housing industry, we have preliminarily decided to focus on PHAs which have significant problems with "turnover" units, units which need less than $10,000 of rehabilitation and which are likely to be marketable after rehabilitation. Factors from the survey will be used to create a manageable group for the FY 1993 funding which will maximize the efficiency of the available dollars.

Consequences of Failure to Conduct the Survey. Without the data the survey requests, we would be left with the following alternatives.

—We could allow all 220 PHAs compete for funds and necessitate performance of 220 assessments prior to that competition. That would mean that FY 1993 funds would

have to be carried over into FY 1994 to allow time for all the assessments and that a rather substantial portion of program funds would have to be used for assessments of PHAs which would not be selected for funding.

—Alternatively, we could limit the applicants for FY 1993 funds based on available data, such as size of PHA and number or percentage of total vacancies. However, this would limit our ability to focus funds on the situations where a limited amount of money can do the most good. We would be risking the possibility that the group we chose to be eligible would not have substantial turnover problems which can be successfully addressed with modest investment.

Justification for structure of the Survey. The survey requires that the PHA state the reason for all of its vacancies and the costs for repair or rehabilitation for all vacancies for which such action is needed to accomplish reoccupancy. This range of questions is needed for the following reasons:

—Accuracy. If PHAs are required to account for 100% of their vacant units, they will be more likely to have accurate numbers in each category. Further, if they are required to account for non-funding causes first, especially marketability, they are more likely to assign only units which will actually be marketable after repair or rehabilitation to those categories needing funding.

—Legal access to funding. We cannot limit funding to any subset of PHAs until the final rule is issued, which we expect to occur about July 1. Therefore, even though we have preliminarily decided on the general nature of the focus for FY 1993, we must structure the survey so that, if comments on the proposed regulations suggested other directions, we could take such comments into account.

—Congressional inquiry. During 1992, the Senate appropriations subcommittee and the House authorizations committee asked probing and rather critical questions about the reasons for the high national vacancy rate. Although this survey is not designed to address all such questions, it will enable the Department to describe the nature of the vacancies in the 220 high vacancy PHAs, which constitute a very substantial part of the national problem.

3. *Use of Improved Technology; Technical or Legal Obstacles.* We are unaware of any technology which would further limit the burden. We believe that the absolute minimum questions are being asked which will accomplish the purpose of the survey.

4. *Duplication.* We have reviewed existing information and have determined that the results of this survey will not duplicate other information already available.

5. *Use of Similar Information.* The only other sources of vacancy data in the Department do not provide data on the reasons for vacancies, other than on-schedule modernization, and do not give any information on the likely cost of repair or rehabilitation. The data for on-schedule modernization is not sufficient to identify those units which are marketable, need funding, and require low amounts of funding. That data has, however, been used in development of the plans for implementation of this program to get an indication of the number of PHAs which have high vacancy rates, probably mostly needing funding, after units in developments with on-schedule modernization have been discounted.

6. *Small Entities.* This survey will include PHAs of all sizes. The burden on small PHAs will be extremely small because their number of vacant units, as well as total units, is small. This one-page, one-time survey has been made as simple as possible for all PHAs.

7. *Frequency.* This is a one-time survey.

8. *Guidelines in 5 CFR 1320.6.* This information is not being collected in a manner inconsistent with the guidelines in 5 CFR 1320.6 with the exception that PHAs are being asked to use a report date of March 31, 1993, and then return the survey within the next ten days. This shortened period is necessary in order to ensure that the assessment component of the program can begin and funds awarded before the end of the 1993 fiscal year. This is not seen as a burden to the PHAs because the data on actual occupied/vacant units is already being recorded by the PHA and cost data can be obtained from previously developed physical needs assessments.

9. *Consultation.* We have consulted with the public housing industry groups and with two organizations representing resident councils and resident management corporations (see attached) regarding the development of the policy necessitating the survey and the specific nature of the survey. The survey form has been reviewed by these groups. Their comments are reflected in the survey form.

10. *Confidentiality.* No assurances of confidentiality have been made.

11. *Questions of a Sensitive Nature.* The survey does not contain any questions of a sensitive nature.

12. *Cost.* There will be no additional cost to the Federal government or the respondent PHAs. Data on vacancies is already maintained by PHAs as part of their Rent Roll records and the survey directions on cost and funding sources urge PHAs to look at existing planning and physical needs assessments as potential sources of information.

13. *Burden.* HUD estimates the average reporting burden to be one hour per responding PHA. Of the approximately 250 PHAs expected to respond, 173 (69%) are very small or small PHAs of less than 500 units and this group should require minimal time to complete the survey. Large and very large PHAs constitute 14% of the responding group and they may require more time to retrieve and review records and past assessments.

14. *Change in Burden.* This is a new, one-time report.

15. *Publication.* We have no plans to publish the results of the survey.

Instructions For Preparation of Survey

PART I. Public Housing Agency (PHA) Identification

Line 2. Housing Agency Code: Two-digit standard alphabetic abbreviation for the state in which the PHA is located plus three-digit numeric code of the PHA. (Precede codes of less than three digits with zeros.) Example: MD001

PART II. Data Source and Report Date Selection

Include data only for PHA-owned or operated units that are eligible for modernization funding under Section 14 of the Act. For example, all units in the Low Rent Public Housing Program are eligible for Section 14 funding, but in the Section 23 program, only those units that are in projects that are bond-financed would be eligible. Section 8 projects are not eligible.

PART III. Actual Number of Occupied and Vacant Units

Line 4. Units Occupied.—An occupied unit is a dwelling unit that is under an effective lease to an eligible family as of the report date. An effective lease is one in which an eligible family has a right to possession of the unit and is being charged rent. Units occupied by employee families whose occupancy is contingent upon their employment by the PHA should be excluded. Non-dwelling units should also be excluded.

Line 5. Vacant Units.—A vacant unit is a dwelling unit that is not under an effective lease (see Line 4 for further description of effective lease) to an eligible family as of the report date. Vacant units that have been approved by HUD as of the report date for some type of deprogramming action (eg., demolition, disposition, reconfiguration) should be excluded. Vacant units in a modernization program should be included.

Line 6. Total Units Available.—This is the total of line 4 plus line 5.

PART IV. Distribution of Vacancies By Major Causes

In distributing the number of vacant units reported on line 5. among the various categories, please remember to *assign each vacant unit to only one category or cause.* When a unit might be vacant for more than one reason, please select the *primary* reason.

Line 8. By "marketable" it is meant that the past experience of the PHA would indicate that the units should lease reasonably quickly.

Line 11. Funded under CGP means the Annual Statement providing for the work has been approved by HUD or has been submitted to HUD.

Lines 14. and 15. Units in a development which is likely to require both modernization and partial demolition, or total demolition with partial replacement on site, should be divided between lines 14 and 15 according to an estimate of the number of units to be demolished and the number of units to remain on site.

PART V. Estimated Cost and Funding Sources

Estimates provided in this survey will have no bearing whatsoever on the amount of funding of any specific PHA under the vacancy reduction program. Those PHAs targeted in any given funding round will specify in their plans the funds that they are requesting, and funding will be based on those plans.

Please estimate costs of making the vacant units habitable and marketable *excluding any known cost of necessary lead-based paint*

(LBP) abatement. This is necessary so that units for which LBP assessments have been done will be treated the same as those where assessments have not been done, for purposes of determining funding rounds under the program. When actual funding takes place, LBP abatement costs are expected to be included.

PHAs are requested not to spend an extensive amount of time in manual data collection or searches in order to provide cost and funding information. Where large numbers of vacancies are concentrated in specific developments, the estimated average per unit cost of repair/rehabilitation of the entire development may be used. The Comprehensive Plan prepared for the Comprehensive Grant Program or previous.

Survey of Vacancy Rates in Selected Low Rent Public Housing Agencies and Self-Assessment of Major Causes of Vacancies

I. Public Housing Agency (PHA) Identification:
1. Name and Address of PHA:
2. Housing Agency Code. _____/_____

II Data Source and Report Date Selection:
PHAs are requested to use occupancy/vacancy data obtained from their Rent Roll records as of March 31, 1993. If the March 1993 data is clearly not representative of the average yearly occupancy rate being experienced by the PHA, another month in the last six-month period may be used and noted below.
3. Enter the date of the Rent Roll records used below: Rent Roll Records as of ____/____/____(give mo./day/yr.)

III. Actual Number of Occupied and Vacant Units As of Report Date
4. Units occupied as of report date _____
5. Vacant units as of report date _____
6. Total units available in PHA _____
7. Actual Vacancy Percentage: (divide line 5 by line 6; multiply by 100 and round to nearest whole) _____%

IV. Distribution of Vacancies By Major Cause:

Given below are several possible causes for why some or all of the units reported on line 5 are vacant. To the best of your knowledge, please distribute the reported number of vacant units among these causes as appropriate. Where a unit might be vacant for more than one reason, please select the *primary* reason.

Category A: Vacant Units Where Correction of Problem Requires No Funding or Sufficient Funding Is Available

	No. of Units
8. Units prepared, marketable, awaiting leasing.	_____
9. Units prepared but no demand (few or no persons on waiting list).	_____
10. Units prepared, but are undesirable (three or more turndowns and marketing problem cannot be corrected with modernization funds).	_____
11. Units that are part of a funded modernization program (Note: if a unit is being prepared with CIAP, CGP or MROP funds and marketing problems of the types noted in lines 9 or 10 are expected to continue after the modernization work is completed, please use line 9 or line 10 for this situation. Use line 15 if the current funds are not expected to be sufficient to complete enough modernization for the units to be successfully marketed).	_____
12. Litigation and/or court-ordered vacancies.	_____
13. Other (specify) _____.	_____

	No. of Units
Category B: Vacant Units Where Correction of Problem Requires Additional or New Funding Not Now Available In Current Year	
14. Units needing demolition/disposition.	_____
15. Units needing to be modernized (complete Part V for this group of units).	_____
16. Units needing reoccupancy preparation but less than full modernization (complete Part V for this group of units).	_____
17. Other (specify) _____.	_____
18. Total (lines 8–17) _____.	_____

Note: LINE 18 SHOULD EQUAL LINE 5.

V. Estimated Cost and Funding Sources:
Please distribute the units shown on lines 15 and 16 between the various cost ranges shown in the table below. For example, if there are a total of 100 units on line 15 and it is estimated that 25 of these units can be repaired and/or rehabilitated for approximately $8,000 each, you would enter 25 on line 19 under the "Number of Units" column.
For each cost range, please take the number of units and distribute them across the respective funding sources, if funding can reasonably be expected in the next three years. Column (d) would be used for units that would not be funded within the next three years
For example, if there were 25 units on line 19 and the PHA expected that 20 of the units would be funded from Comprehensive Grant Program (CGP) funds expected over the next three years, you would enter 20 under the CGP column.
Columns (b), (c), and (d) should equal column (a).

Est. Per Unit Cost for Repair/Modernization	Number of Units (a)	PHA plans funding w/in 2 years		
		CGP (b)	Op. Funds (c)	Not funded (d)
19. Up to $5,000/unit				
20. $5,001–$10,000/unit				
21. $10,001–$25,000/unit				
22. $25,001/unit or more				
Total	_____	_____	_____	_____

Name of person responding to survey

Phone number of person responding to survey (□) _____

physical needs assessments undertaken to develop the Comprehensive Plan for Modernization or to prepare for Joint Review under the CIAP program are all potential sources of information that could be used to complete this section if relatively current.

Column (a). Take the total number of units reported on lines 15 and 16 and distribute them among the different cost categories.

Column (b). Units should be distributed under this column if the PHA's Five Year Action Plan approved by HUD or submitted to HUD reflects sufficient funds being committed for these units in years two or three for units to be modernized and successfully marketed. (Note: if sufficient funds are already committed in the current year, use Line 11.)

Column (c). Units should be distributed under this column if the PHA expects that the funds needed to repair (not modernize) the unit will be available from general operating funds within the next two years.

Column (d). If funding is not expected to be available within the next two years, use this column.

[FR Doc. 93–6431 Filed 3–18–93; 8:45 am]

BILLING CODE 4210–33–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–93–1917; FR–3350–N–23]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–og (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Army:* Robert Conte, Department of Army, Military Facilities, DAEN–ZCI–P; rm. 1E671, Pentagon, Washington, DC 20310–2600; (703) 693–4583; *U.S. Navy:* John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; *U.S. Air Force:* Bob Menke, USAF, Bolling AFB, SAF–MIIR, Washington, DC 20332–5000; (202) 767–6235; *U.S. Air Force:* John Carr, Realty Specialist, HQ–AFBDA/BDR, Pentagon, Washington, DC 20330–5130; (703) 696–5569; *GSA:* Leslie Carrington, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 208–0619; *Dept. of Transportation:* Ronald D. Keefer, Director, Administrative Services & Property Management, DOT, 400 Seventh St. SW., room 10319, Washington, DC 20590; (202) 366–4246; *HHS:* Judy Breitman, Chief, Real Property Branch, Dept. of HHS, Div. of Health Facilities Planning, rm. 17A10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265; (These are not toll-free numbers).

Dated: March 12, 1993.

Don I. Patch,

Acting Deputy Assistant Secretary for Grant Programs.

Title V—Federal Surplus Property Program Federal Register Report For 03/19/93

Suitable/Available Properties

Buildings (by State)

Georgia

Bldgs. 4911, 4927, 4928, 4867–4870, 4975, 4877, 4876, 4878, 4880, 4902–4905, 4851–4854, 4859–4862
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219010106–219010108, 219011448, 219011450–219011452, 219011455, 219011468, 211011470, 219011472, 219011474, 219011476–219011479, 219011507–219011510, 219011515–219011518
Status: Unutilized
Comment: 1888 sq. ft. ea.; most recent use—barracks; needs rehab.

Bldgs. 5390, 5392, 5391
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219010137, 219010151–219010152
Status: Unutilized
Comment: 2432 sq. ft. ea. most recent use—dining room; needs rehab.

Bldg. 5362
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.

Bldg. 5363
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219010148
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.

Bldg. 4865
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011447

Status: Unutilized
Comment: 1098 sq. ft., 1 floor, most recent use—storehouse, needs rehab.

Bldgs. 4871, 4874, 4906, 4909
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011453, 219011467, 219011480, 219011483
Status: Unutilized
Comment: 1507 sq. ft. ea.; 1 floor; most recent use—day room; needs major rehab/ construction to be made habitable.

Bldgs. 4872, 4873, 4907, 4908
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011458, 219011465, 219011481–219011482
Status: Unutilized
Comment: 2183 sq. ft. ea.; 1 floor; most recent use—dining room; major construction required to be made habitable.

Bldg. 4901
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011484
Status: Unutilized
Comment: 810 sq. ft.; 1 floor; most recent use—other inst st.; major rehab/ construction to be made habitable is required.

Bldgs. 4866, 4879, 4747, 4834
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011485–219011486, 219011497–219011498
Status: Unutilized
Comment: 794 sq. ft. ea.; 1 floor; most recent use—arms bldg.; major rehab/construction required to be made habitable.

Bldgs. 4605, 4615
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011493–219011494
Status: Unutilized
Comment: 915 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4642–4643
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011495–219011496
Status: Unutilized
Comment: 3068 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011499
Status: Unutilized
Comment: 1501 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldgs. 4840–4841
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011500–219011501
Status: Unutilized
Comment: 2930 sq. ft. ea., building in poor condition, major construction needed to be made habitable.

Bldg. 4843
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011502
Status: Unutilized
Comment: 1776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011503
Status: Unutilized
Comment: 3776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4846
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011504
Status: Unutilized
Comment: 1455 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011505
Status: Unutilized
Comment: 900 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011506
Status: Unutilized
Comment: 804 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4855, 4858
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011511, 219011514
Status: Unutilized
Comment: 1507 sq. ft. ea., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4856
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011512
Status: Unutilized
Comment: 2183 sq ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4857
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011513
Status: Unutilized
Comment: 2160 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4863
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011519
Status: Unutilized
Comment: 794 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4864
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011520
Status: Unutilized
Comment: 1292 sq ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4507
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011673
Status: Unutilized
Comment: 1888 sq ft.; most recent use—barracks, needs substantial rehabilitation, 2 floors.

Bldgs. 4506, 4505
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011675–219011676
Status: Unutilized
Comment: 2145 sq. ft. ea.; most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4487
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011681
Status: Unutilized
Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4484
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011682
Status: Unutilized
Comment: 1098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.

Bldg. 4319
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011683
Status: Unutilized
Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldgs. 4481, 4479
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Numbers: 219011685–219011686
Status: Unutilized
Comment: 1507 sq. ft. ea.; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 3400
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011694
Status: Unutilized
Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011704
Status: Unutilized
Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011709
Status: Unutilized
Comment: 336 sq. ft.; most recent use—inflammable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089
Fort Benning, GA, Muscogee, Zip: 31905–
Landholding Agency: Army
Property Number: 219011710
Status: Unutilized
Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Suitable/Available Properties

Buildings (by State)

Hawaii

Bldg. 5, Radio Trans. Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310001
Status: Unutilized
Comment: 12046 sq. ft., one story, needs rehab, access restrictions, most recent use—offices, off-site use only.

Bldg. 31, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310002
Status: Unutilized
Comment: 640 sq. ft., 1 story, access restrictions, need repairs, most recent use—storage, off-site use only.

Bldg. T33 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310003
Status: Unutilized
Comment: 1536 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 64, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310004
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 65, Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310005
Status: Unutilized
Comment: 3612 sq. ft., 1 story, access restrictions, needs rehab, most recent use—storage, off-site use only.

Bldg. 429 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310006
Status: Unutilized
Comment: 13950 sq. ft., 3 story, access restrictions, needs rehab, most recent use—barracks, off-site use only.

Bldg. 430 Radio Trans Facility
Naval Computer & Telecommunications Area
Wahiawa Co: Honolulu HI 96786–3050
Landholding Agency: Navy
Property Number: 779310007
Status: Unutilized
Comment: 2680 sq. ft., 1 story, access restrictions, needs rehab, most recent use—dining facility, off-site use only.

Iowa

Bldg. 00627
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 189310001
Status: Unutilized
Comment: 1932 sq. ft., 1-story concrete block bldg., most recent use—storage, pigeon infested.

Bldg. 00669
Sioux Gateway Airport
Sioux City Co: Woodbury IA 51110–
Landholding Agency: Air Force
Property Number: 189310002
Status: Unutilized
Comment: 1113 sq. ft., 1-story concrete block bldg., contamination clean-up in process.

Rhode Island

Parcel 1 (7 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310029
Status: Excess
Base closure Number of Units: 7
Comment: 1 story, presence of asbestos, on 52 acres, portion u/superfund cleanup site, includes gen. warehouses, gate house, admin bldg, scheduled to be vacated 9/94.

Parcel 2 (62 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310030
Status: Excess
Base closure Number of Units: 62
Comment: 1–4 story, presence of asbestos, on 110 acres, portion u/superfund cleanup site, incs. theater, admin, barracks, storage, chapel warehouses, scheduled to be vacated 9/94.

Parcel 4 (92 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310031
Status: Excess
Base closure Number of Units: 92
Comment: 1 story, presence of asbestos, portion u/superfund cleanup site, on 216 acres, includes warehouses, admin, auto shops, heat plants, storage, scheduled to be vacated 9/94.

Parcel 5 (1 bldg.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310032
Status: Excess
Base closure Number of Units: 1
Comment: 1 story, telephone exchange bldg., fair condition, presence of asbestos, scheduled to be vacated 9/94.

Parcels 7, 9, 10 (26 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310034
Status: Excess
Base closure
Number of Units: 26
Comment: 1–2 story, presence of asbestos, on 360 acres, portion u/superfund cleanup site, includes storage, auto shop, applied instruc. bldgs, rec. pavillion, scheduled to be vacated 9/94.

Parcel 8 (23 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310035
Status: Excess
Base closure
Number of Units: 23
Comment: 1–2 story, includes 9 family residences, detached garages, warehouses, presence of asbestos, fair condition, on 87 acres, scheduled to be vacated 9/94

Land (by State)

New Mexico

Land, LPN Service Bldg.
1015 Indian School Road
Alburquerque Co: Bernalillo NM 87102–
Landholding Agency: HHS
Property Number: 57922001
Status: Unutilized
Comment: 0.2732 acre, underground lawn sprinkler, most recent use—maintenance yard, secured w/chain link fence.

Suitable/Unavailable Properties

Buildings (by State)

Rhode Island

Parcel 6 (7 bldgs.)
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Lanholding Agency: Navy
Property Number: 779310033
Status: Excess
Base closure
Number of Units: 7
Comment: 1 story, presence of asbestos, on 4.7 acres, includes gen. warehouses, heat plant, administration, storage, scheduled to be vacated 9/94.

Unsuitable Properties

Buildings (by State)

Hawaii

Facility 189, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310045
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility 342, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310046
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility 343, Naval Air Facil.
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310047
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility S6194
Naval Air Facility.
Midway Island

Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310048
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Facility S7124
Naval Air Facility
Midway Island
Pearl Harbor HI 96516–
Landholding Agency: Navy
Property Number: 779310049
Status: Unutilized
Reason: Other Secured Area
Comment: Extensive deterioration.

Rhode Island

Parcel 3, Oil Storage Tank
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310036
Status: Excess
Base closure Number of Units: 1
Reason: Other environmental
Comment: Oil Storage Tank.

Parcel 4A
Naval Construction Battalion Center
Davisville Co: Kent RI 02854–1161
Landholding Agency: Navy
Property Number: 779310037
Status: Excess
Base closure Number of Units: 1
Reason: Other
Comment: Electric Substation.

Texas

11 Ammo Storage Buildings
Bergstrom Air Force Base
Austin Co: Travis TX 78743–
Landholding Agency: Air Force-BC
Property Number: 199310004
Status: Excess
Base closure
Number of Units: 11
Reason: Within 2000 ft. of flammable or explosive material.

Old Exchange Bldg.
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310012
Status: Unutilized
Reason: Secured Area.

Paint Locker/Flammable Storage
U.S. Coast Guard
Galveston Co: Galveston TX 77553–3001
Landholding Agency: DOT
Property Number: 879310013
Status: Unutilized
Reason: Secured Area.

Washington

Bldg. 261
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310053
Status: Unutilized
Reason: Secured Area.

Bldg. 284
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310054
Status: Unutilized
Reason: Secured Area.

Facility 923
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310055
Status: Unutilized
Reason: Secured Area.

Bldg. 1330
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310056
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 1336
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310057
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2000
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310058
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2143
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310059
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Bldg. 2385
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310060
Status: Unutilized
Reason: Secured Area.

Bldg. 3509
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310061
Status: Unutilized
Reason: Secured Area.

Bldg. 1405
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310062
Status: Underutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 1468
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310063
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 1469
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310064
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Facility 2450
Fairchild Air Force Base
Fairchild AFB Co: Spokane WA 99011–
Landholding Agency: Air Force
Property Number: 189310065
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of flammable or explosive material.

Land (by State)

California

Parcel B
Santa Rosa Co: Sonoma CA
Landholding Agency: GSA
Property Number: 549310016
Status: Excess
Reason: Other
Comment: Sewage Treatment Plant
GSA Number: 9–G–CA–580C.

[FR Doc. 93–6236 Filed 3–18–93; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3538; FR 3370–N–02]

Notice of Funding Availability; Disaster Relief Housing Counseling; Correction to List of Disaster Declared Areas; and Extension of Application Deadline

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for Disaster Relief Housing Counseling for Fiscal Year 1992 under the Dire Emergency Supplemental Appropriations Act of 1992; Correction to list of disaster declared areas in Louisiana, and extension of application deadline.

SUMMARY: On January 21, 1993 (58 FR 5556), HUD published a notice which announced the availability of $500,000 of Fiscal Year (FY) 1992 funding under the Dire Emergency Supplemental Appropriations Act of 1992 (Pub. L. 102–368, approved September 23, 1992) for HUD-approved housing counseling agencies to provide emergency counseling regarding housing availability, maintenance and financing to homebuyers, homeowners, and renters living in areas adversely affected by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters as declared by the President of the United States.

The purpose of this notice is to correct the inadvertent omission of eight parishes in the State of Louisiana from the list of declared disaster areas in the

January 21, 1993 NOFA, and to extend the application deadline of the NOFA to April 9, 1993.

DATES: The application due date for this NOFA has been extended to April 9, 1993.

Applications may be mailed, provided that they are postmarked no later than midnight, April 9, 1993. If an application is physically delivered to the Office of Procurement and Contracts at HUD Headquarters, the application must be delivered by 5:15 p.m. eastern standard time. (Section II.A. of the NOFA published on January 21, 1993 contains detailed information on submitting applications. See 58 FR 5558.)

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is not received on or before, or postmarked by, the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: Thomas Miles, Program Advisor, Single Family Servicing Division, Department of Housing and Urban Development, room 9178, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708–1672, or (202) 708–4594 (TDD number). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On January 21, 1993 [58 FR 5556), HUD published a notice (NOFA) which announced the availability of $500,000 of Fiscal Year (FY) 1992 funding under the Dire Emergency Supplemental Appropriations Act of 1992 (Pub. L. 102–368, approved September 23, 1992) for HUD-approved housing counseling agencies to provide emergency counseling regarding housing availability, maintenance and financing to homebuyers, homeowners, and renters living in areas adversely affected by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters as declared by the President of United States.

Section I.B.2 of the NOFA (58 FR 5557) identifies the areas within three States (Florida, Hawaii, Louisiana) and one U.S. territory (Guam) that were declared disaster areas as a result of Hurricane Andrew, Typhoon Omar, and Hurricane Iniki. In listing the parishes in the State of Louisiana that were declared disaster areas (Section I.B.2.c), the NOFA inadvertently omitted the following eight parishes: Ascension, Assumption, Iberia, Iberville, Lafourche, St. John the Baptist, St. Martin, and St. Mary. Although these eight parishes were inadvertently omitted from the NOFA, each HUD-approved housing counseling agency located in or serving these parishes received an application kit, which invited the agencies to apply for funding under the January 21, 1993 NOFA.

To ensure that the omission of the eight parishes from the list of declared disaster areas did not mislead the HUD-approved housing counseling agencies in these parishes about their eligibility to apply for funding under the January 21, 1993 NOFA, HUD is publishing this correction, and also extending the application deadline for all applicants to April 9, 1993.

The purpose of this notice is to correct the omission, in the January 21, 1993 NOFA, of eight parishes in the State of Louisiana from the list of declared disaster areas, and to extend the application deadline of the NOFA to April 9, 1993.

Accordingly, FR Doc. 93–1332, published on January 21, 1993 at 58 FR 5556 is corrected to read as follows:

On page 5557, in the first column, paragraph B.2.c is corrected by adding to the list of parishes set forth in this paragraph, the following eight parishes so that paragraph c reads as follows:

* * * * *

c. In the State of Louisiana (Hurricane Andrew), the Parishes of * * * Ascension, Assumption, Iberia, Iberville, Lafourche, St. John the Baptist, St. Martin, and St. Mary; and

* * * * *

Dated: March 15, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–6373 Filed 3–18–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–920–03–4110–02]

Adoption of Final Environmental Impact Statement for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Adoption by the Bureau of Land Management (BLM) of the Final Environmental Impact Statement for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest in accordance with the National Environmental Policy Act (NEPA) and Title 40 CFR part 1500.

SUMMARY: In accordance with section 102 of the National Environmental Policy Act of 1969, a Final Environmental Impact Statement (FEIS) for Oil and Gas Leasing on Lands Administered by the Manti-La Sal National Forest has been prepared by the U.S. Forest Service (FS) and BLM. The BLM participated in preparation of the FEIS as a cooperating agency in accordance with Title 40 CFR part 1501.6 and national and local agreements.

The FEIS addresses oil and gas leasing on all lands in the Manti-La Sal National Forest that are legally open to leasing. It is tiered to and supplements the Manti-La Sal National Forest Final Environmental Impact Statement for the Land and Resource Management Plan (Forest Plan FEIS) which became effective on November 5, 1986, by providing more detailed information on the potential effects of oil and gas leasing needed to meet current laws, regulations and requirements not in place at the time the Forest Plan FEIS was completed.

The Mineral Leasing Act of 1920, as amended, provides the Secretary of the Interior the authority to issue oil and gas leases on lands where oil and gas rights are held by the Federal Government.

This authority has been delegated to BLM. The issuance of oil and gas leases on National Forest System Lands by BLM requires the consent of the Secretary of Agriculture under the Federal Onshore Oil and Gas Leasing Reform Act of 1987. This authority to object or not object to leasing and to require specific conditions for leasing has been delegated to Forest Supervisors.

In accordance with Title 40, CFR part 1506.3(c), the BLM is adopting the FEIS for the purpose of issuing oil and gas leases and approving operations on lands within the administrative boundaries of the Manti-La Sal National Forest. Comments and concerns of the Department of the Interior have been satisfied. The FEIS complies with NEPA and meets the requirements of the regulations for implementing the Federal Land Policy and Management Act of 1976 (43 CFR part 1600).

Copies of the FEIS are available from the U.S. Forest Service, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501. Public Reading copies will be available at the following BLM locations:

Utah State Office, 324 S. State Street, Salt Lake City, Utah 84111.

Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.
Moab District Office, 82 East Dogwood, Moab, Utah 84532.
Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506.

FOR FURTHER INFORMATION CONTACT: George Diwachak, Bureau of Land Management, Utah State Office, (UT–922), P.O. Box 45155, Salt Lake City, Utah 84145–0155.

James M. Parker,
Utah State Director.
Martha G. Hahn,
Associate State Director.
[FR Doc. 93–6391 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–DQ–M

[UT–080–4920–10–4174]

Proposed Plan Amendment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: This notice is to advise the public that the proposed planning amendment and associated environmental assessment for the Diamond Mountain Management Framework Plan have been completed. The proposed plan amendment provides for the disposal of a tract of public land through exchange in Uintah County, Utah, comprising approximately 80 acres, described as follows:

Salt Lake Meridian

T. 1 N., R. 24 E.,
Sec. 35, W½NW¼.

DATES: The protest period for this proposed plan amendment will commence with the date of publication of this notice. Protests must be submitted on or before April 19, 1993.

ADDRESSES: Protests should be addressed to the Director of the Bureau of Land Management, MS 5660, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this Notice for the proposed planning amendment.

FOR FURTHER INFORMATION CONTACT: Joy Wehking, Vernal District Office, 170 South 500 East, Vernal, Utah 84078, telephone (801) 789–1362.

SUPPLEMENTARY INFORMATION: This plan amendment is necessary since the existing plan does not identify this land for disposal. This exchange is between the State of Utah and the National Park Service. The exchange would benefit the public through the acquisition of inholdings within a National Park. The environmental assessment identifies no significant impacts. The public interest would be served by providing for this land exchange.

This action is announced pursuant to section 206 of the Federal Land Policy and Management Act of 1976 and 43 CFR part 1610. The proposed planning amendment is subject to protest from any adversely affected party who participated in the planning process. Protests must be made in accordance with the provision of 43 CFR 1610.5–2.

James M. Parker,
State Director.
[FR Doc. 93–6392 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–DQ–M

[CA–060–01–4410–04]

Change of Location Site for the March 25–27 Meeting of the California Desert District Advisory Council

ACTION: Amend the Federal Register Notice published on page 12368 in Volume 58, Number 41, on Thursday, March 4, 1993, to notify the public that the location for March 25–27 meeting of California Desert District Advisory Council has been changed.

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, March 25, 1993, from 8 a.m. to 5 p.m., and Saturday, March 27, 1993, from 8 a.m. to 11 a.m., in the Heritage Inn conference room at 1050 N. Norma Street, Ridgecrest, California. Also, the field tour on Friday, March 26, will depart from the Heritage Inn at 7 a.m. Agenda items for the meeting will remain the same.

FOR MORE INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, External Affairs Office, 6221 Box Springs Boulevard, Riverside, California 92507; (909) 697–5215.

Dated: March 15, 1993.

Lucia Kuizon,
Acting District Manager
[FR Doc. 93–6401 Filed 3–18–93; 8:45 am]
BILLING CODE 4310–40–M

[OR–100–6321–01; G–3–119] (Case File #OR–49268]

North Umpqua Resource Area and Drain Resource Area Management Framework Plans; Plan Amendment and Exchange of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent, plan amendment; notice of realty action, exchange of public lands.

SUMMARY: In accordance with 43 CFR 1610.2 and 1610.3 and 43 CFR 2200, notice is given that the Bureau of Land Management in the State of Oregon, Roseburg District, intends to amend the North Umpqua Resource Area and Drain Resource Area Management Framework Plans (MFPs). The purpose of the plan amendments is to make available for exchange certain lands located in Douglas County in southwestern Oregon. The MFP amendments will facilitate a current exchange proposal which may not be available in one year.

The purpose of the Notice of Realty Action is to segregate the subject lands from appropriation under the public land laws, including the mining laws, except for exchange, during the plan amendment and exchange processes.

DATES: A two purpose public comment period is provided at this time. Publication of this Notice in the **Federal Register** starts the 45 day comment period necessary to meet public notification requirements for both the Notice of Intent to prepare plan amendments and the Notice of Realty Action.

ADDRESSES: Bureau of Land Management, Roseburg District Office, 777 NW Garden Valley Blvd., Roseburg, OR 97470.

FOR FURTHER INFORMATION CONTACT: Dick Watson, North Umpqua Resource Area Planner (503) 440–4930.

SUPPLEMENTARY INFORMATION: Publication of this Notice of Realty Action in the **Federal Register** will segregate public lands described below to the extent they will not be subject to appropriation under the public land laws, including the mining laws, except for exchange. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. This segregative effect shall terminate upon issuance of a deed to such lands, upon publication in the **Federal Register** of a termination of the segregation, or two years from date of this publication, whichever comes first.

The North Umpqua and Drain Resource Area MFP proposed plan amendments and exchange proposal include public lands administered by the BLM in the North Umpqua and Drain Resource Areas described as follows:

Willamette Meridian, Douglas County, OR

T. 25 S., R. 5 W.,
Sec. 9, NE¼SW¼, S½SW¼, N½SE¼, SW¼SE¼;
Sec. 23, NE¼SW¼;
Sec. 29, S½NE¼.
T. 24 S., R. 6 W.,
Sec. 11, N½NW¼, S½SE¼;
Sec. 13, N½NE¼, NE¼NW¼.
T. 25 S., R. 6 W.,
Sec. 7, lots 1 to 4, inclusive, E½NW¼.
Containing 884.09 acres.

Contingent upon approval of the amended MFPs, the above described 884 acres will be in conformance with the approved land use plans and, therefore, suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. 1716. The parcels being proposed for disposal are generally considered to be isolated and uneconomical to manage.

The Roseburg District Office has received an informal exchange proposal from 2Linc., a registered corporation in the state of Oregon, potentially affecting the public lands noted above. The lands being offered by 2Linc. for this exchange are described as follows:

Willamette Meridian, OR

T. 25 S., R. 4 W.,
Sec. 31, portion;
Sec. 32, portion;
Sec. 33, portion;
T. 26 S., R. 4 W.,
Sec. 4, portion;
Sec. 5, portion;
Sec. 6, all;
Sec. 7, portion;
Sec. 8, portion;
Sec. 17, portion;
Sec. 18, portion;
T. 25 S., R. 5 W.,
Sec. 35, portion;
Sec. 36, portion;
T. 26 S., R. 5 W.,
Sec. 1, all;
Sec. 2, portion;
Sec. 11, portion;
Sec. 12, all;
Sec. 13, portion;
Sec. 14, portion.
Containing approximately 6,561 acres.

The parcels identified for acquisition through the exchange process are considered to contain high public values including recreation, wetlands, wildlife, and special status plants.

The value of lands proposed for exchange have not been determined. Upon completion of a final appraisal, acreage would be adjusted or money would be used to equalize the values.

Public lands would be transferred subject to: (1) The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945); and (2) all valid existing easements, leases, permits, licenses, or other rights.

Major issues involved in the plan amendments include: (1) Specific identification of public land parcels to be included in the potential exchange; (2) impacts to special status species, particularly the Columbia White Tail Deer, a federally designated endangered species; (3) impacts to lands classified as "Revested Oregon & California Railroad Grant Lands"; (4) potential for all or part of the offered parcel to be designated an "Area of Critical Environmental Concern", as identified in section 202 (c)(3) of the FLPMA; and (5) general management direction for public and private parcels identified for exchange. Parcels will be screened by an interdisciplinary (ID) team through the environmental assessment (EA) process. Disciplines to be represented on the ID team preparing the plan amendments and EAs are: Archeology, lands, minerals, recreation, forestry, fisheries, hydrology, botany, soils, wildlife, geology, hazardous materials, and land use planning. Preliminary planning criteria (issues) have been identified as stated above. Management Framework Plans are available for public review at the Roseburg District Office.

The BLM is inviting comments to be considered in the preparation of the EA for the proposed exchange. Comments may be addressed to Dave Baker, North Umpqua Resource Area Manager, at the Roseburg District Office. Comments should be submitted by May 3, 1993.

No public meetings are currently planned for this exchange proposal. Potential need for public meetings will be evaluated based on the level of public input as a result of public notification procedures. Any public meetings will be announced at least 15 days in advance.

Detailed information concerning the proposed exchange and plan amendments, including the environmental assessment, will be available at a later date at the Roseburg District Office. When the environmental assessment is completed, another comment period will be provided to allow for additional public input to the exchange and associated plan amendment. This comment period will be announced in a **Federal Register** notice and local media.

Any final decision will also be published to these same standards and a protest period provided.

Dated: February 26, 1993.

James Moorhouse,

District Manager.

[FR Doc. 93–5600 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

Comprehensive Design Plan for the White House and President's Park; Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement and begin environmental scoping process.

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, Public Law 91–190, the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for a Comprehensive Design Plan for the White House and President's Park. The study area generally encompasses U.S. Reservations 1 and 10, including the White House and its grounds, Lafayette Park, Sherman Park, First Division Monument, and the Ellipse.

Significant plans over the past 200 years have set the general design parameters for President's Park and the White House grounds. Plans such as those created by Pierre L'Enfant (1791), Andrew Jackson Downing (1851), the Senate Park (McMillan) Commission (1902), and the Olmsted brothers (1936) have been the most notable. However, in recent years, management actions have taken place without an overall planning document to guide the work. The need for a comprehensive design plan that would preserve the intent of these original landscape designs and that would guide future actions was identified and discussed by the several agencies that have responsibilities in the study area. The result was a commitment by these agencies to participate in the development of a plan, identified as the Comprehensive Design Plan for the White House.

The Comprehensive Design Plan will be developed over several years and will guide the future management and use of the buildings, grounds, and cultural resources of the White House and President's Park. The goal is to better serve the public and the Presidency and to protect the historic character of this national treasure. The NPS is the lead planning agency and has responsibility for developing the plan in conjunction with other stewardship agencies that have direct management and operational responsibilities within the study area. In the first phase of the project, the NPS, working with the other agencies, has collected site data and developed a description of existing conditions at the study area.

The NPS is now beginning the second planning phase—issue identification. During this phase the NPS will work with the various stewardship agencies and numerous other public and private organizations to identify specific site concerns and issues.

Based on the concerns and issues identified, the Comprehensive Design Plan and associated EIS will evaluate a range of alternatives to address the needs of visitor use and interpretation, cultural and natural resource protection, special events, transportation and parking, security, state and diplomatic functions, the Executive Residence and Executive Office support facilities, as well as site operations, maintenance and facility development. Even though all these elements will be examined, certain elements that involve classified and security-related concerns will be handled in accordance with laws, regulations, or policies applicable to national security information.

Individuals and organizations interested in providing comments on issues for the Comprehensive Design Plan and associated EIS process are encouraged to call, visit or provide written comments to the project office. Comments should be directed to the Project Coordinator, Comprehensive Design Plan for the White House, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., room 3360, Washington DC 20240. The office phone number is (202) 219–1007. Comments should be received by May 15, 1993.

The responsible official is Robert Stanton, Regional Director, National Capital Region, National Park Service, Washington, DC.

Dated: March 11, 1993.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 93–6346 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–30–M

Jimmy Carter National Historic Site Advisory Commission; Meeting

AGENCY: Jimmy Carter National Historic Site, National Park Service, Interior.

ACTION: Notice of advisory commission meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Commission Act that a meeting of the Jimmy Carter National Historic Site Advisory Commission will be held at 8:30 a.m. to 4 p.m., at the following location and date.

DATES: April 23, 1993.

LOCATION: The Carter Presidential Library, One Copen Hill, Atlanta, Georgia 30307, (404) 331–3900.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Boyles, Superintendent, Jimmy Carter National Historic Site, Route 1 Box 800, Andersonville, Georgia 31711, (912) 924–0343.

SUPPLEMENTARY INFORMATION: The purpose of the Jimmy Carter National Historic Site Advisory Commission is to advise the Secretary of the Interior or his designee on achieving balanced and accurate interpretation of the Jimmy Carter National Historic Site.

The members of the Advisory Commission are as follows:

Dr. Steven Hochman
Dr. James Sterling Young
Dr. Donald B. Schewe
Dr. Henry King Stanford
Dr. Barbara Fields
Director, National Park Service, Ex-Officio member

The matters to be discussed at this meeting include the status of park development and planning activities. This meeting will be open to the public. However, facilities and space for accommodating members of the public are limited. Any member of the public may file with the commission a written statement concerning the matters to be discussed. Written statements may also be submitted to the Superintendent at the address above. Minutes of the meeting will be available at Park Headquarters for public inspection approximately 4 weeks after the meeting.

Dated: February 26, 1993.

James W. Coleman, Jr.,

Regional Director, Southeast Region.

[FR Doc. 93–6347 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–70–M

Subsistence Resource Commission, Wrangell-St. Elias National Park; Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

(1) Superintendent and Chairperson's Welcome.

(2) Introduction of Commission members and guests.

(3) Review SRC function and purpose:

a. Charters.

b. Membership.

(4) Approval of summary of minutes of previous meeting.

(5) Review Federal Subsistence Management Program.

(6) Superintendent's Report.

(7) SRC resident zone boundary proposals:

a. Review subsistence eligibility for the park.

b. Review written comments on draft proposals.

(8) Public and other agency comments.

(9) Work Session:

a. Review all public comments.

b. Prepare for the Secretary and the Governor a final recommendation on resident zone boundaries, including maps and boundary justifications.

(10) Adjournment.

DATES: The meeting will begin at 9 a.m. on Wednesday, April 7, 1993, and conclude around 5 p.m. The meeting will reconvene at 9 a.m. on Thursday, April 8, 1993, and conclude around 5 p.m.

LOCATION: The meeting will be held at the Caribou Cafe, Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Karen Wade, Superintendent, P.O. Box 29, Glennallen, Alaska 99588. Phone (907) 822–5234.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Deputy Regional Director.

[FR Doc. 93–6345 Filed 3–18–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–290 (Sub–No. 125X)]

Norfolk and Western Railway Co.—Abandonment Exemption—Between Cowden and Coffeen in Fayette, Montgomery and Shelby Counties, IL

Norfolk and Western Railway Company (N&W) has filed a notice of exemption under 49 CFR Part 1152 subpart F—*Exempt Abandonments* to abandon its 31.65-mile line of railroad

between milepost TS–362.65, at Cowden, and milepost TS–394.30, at Coffeen, in Fayette, Montgomery and Shelby Counties, IL.[1]

N&W has certified that: (1) No local traffic has originated, terminated, or moved over the line for at least 2 years; (2) no overhead traffic has moved over the line; (3) no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2–year period; and (4) the requirements at 49 CFR 1105.7(b), 49 CFR 1105.8, 49 CFR 1105.11, 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to government agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on April 18, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by March 29, 1993.[4] Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by April 8, 1993, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard W. Kienle, Senior General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environmental and historic resources.

The Section of Energy and Environment (SEE) will prepare and issue an environmental assessment (EA) by March 24, 1993. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elain Kaiser, Chief of SEE, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: March 9, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 93–6352 Filed 3–18–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32252]

CSX Transportation, Inc.—Trackage Rights Exemption—The Wheeling & Lake Erie Railway Co., Notice of Exemption

The Wheeling & Lake Erie Railway Company (W&LE) has agreed to grant overhead and limited local trackage rights to CSX Transportation, Inc. (CSXT) between Benwood, WV, and Brilliant, OH, beginning at Benwood at the clearance point of CSXT's East Bound Bridge Main Track (CSXT EBB V.S. 1+84) and ending at Brilliant (W&LE milepost SB4), a distance of approximately 18.4 miles, including all trackage necessary to allow CSXT to: (1) serve the R&F coal facility; (2) access CSXT's Lamira branch line at or near Bellaire, OH; and (3) provide service to AEP Cardinal coal plant at or near Brilliant.[1] The trackage rights were to become effective on or about March 8, 1993.[2]

This notice is filed under 49 CFR 1180.2(d)(7). 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 stay the transaction. Pleadings must be filed with the Commission and served on: Charles M. Rosenberger, 500 Water Street J150, Jacksonville, FL 32202.

As a condition to the use of this exemption, any employees adversely affected by the trackage rights will be protected under *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).

Decided: March 15, 1993.

By the Commission, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Sidney L. Strickland,

Secretary.

[FR Doc. 93–6353 Filed 3–18–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or

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[1] In a decision served June 9, 1987, in Docket No. AB–10 (Sub–No. 42), Norfolk and Western Railway Company—Abandonment and Discontinuance of Service—Between Linden IN and Coffeen, IL, the Commission authorized N&W to discontinue service over this line.

[2] A stay will be issued routinely by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[3] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2D 164 (1987).

[4] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

[1] This proceeding relates to Finance Docket No. 32151, *The Wheeling & Lake Erie Railway Company—Acquisition and Operation Exemption—A Line of CSX Transportation, Inc.*, in which the Commission, by decision served December 23, 1992, exempted W&LE and CSXT under 49 U.S.C. 10505 for W&LE to acquire and operate CSXT's 8.4-mile line of railroad between Benwood and Martin's Ferry, OH.

[2] Under 49 CFR 1150.32(b), a notice of exemption does not become effective until 7 days after filing. According to the verified notice of exemption, applicant proposed to consummate the transaction on the effective date of the trackage rights, which it miscalculated to be approximately March 5, 1993. Here, because the notice was not filed until March 1, 1993, consummation should not have taken place until on or after March 8, 1993.

reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement.
The OMB and/or Agency identification numbers, if applicable.
How often the recordkeeping/reporting requirement is needed.
Whether small businesses or organizations are affected.
An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202) 219–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3001, Washington, DC 20503 (202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment and Training Administration

Domestic Agricultural In-Season Wage Report

1205–0017; ETA 232 and 232A

Form No.	Affected public	Respondents	Frequency	Average time per response
Narrative Plan	State/local government	49	6 times	12 hours each.
ETA 232A & 232	Individual or households; farms.	20,000	Once	15 minutes.
8,528 total hours				

State employment agencies need prevailing wage rates in order to process employers' application for intrastate and interstate workers. The rates cover agricultural and logging jobs. Migrant and local seasonal farmworkers are hired for these jobs.

Employment and Training Administration

1205–0310; ETA 9035

Other

Individuals or households; state or local governments; businesses or other for-profit; federal agencies or employees; non-profit institutions; small businesses or organizations

50,200 respondents; .997 hours per response; 50,050 total hours; 1 form

The information provided on this form by employers seeking to use aliens in specialty occupations on H–1B visas will permit DOL to meet Federal responsibilities for program administration, management and oversight.

Employment and Training Administration

JTPA Title II Quarterly Status Report

ETA 9040

Form No.	Affected public	Respondents	Frequency	Average time per response
ETA 9040 (Reg.)	State/local government	59	Quarterly	2 hrs 30 mins.
ETA 9040 (Final)	do	59	Quarterly	2 hrs.
Recordkeeping	do	59	Quarterly	2 hrs 30 mins.
Audit retention	do	59	Annually	24 hrs 30 mins.
4,164 total hours				

The information will be used to assess JTPA statewide finances under Economic Dislocation and Worker Adjustment Assistance (EDWAA). Participant and financial data will be used to respond to Congressional oversight, to prepare budgets, and make annual reports to Congress.

Employment Standards Administration

Payment of Compensation Without Award

1215–0022; LS–206

On occasion

Businesses or other for-profit

900 respondents; 5 minutes per response; 8,550 total hours; 1 form

The form requires insurance carriers and self-insurers to report the payment of compensation benefits to injured claimants.

Employment Standards Administration

Notice of Controversion of Right to Compensation

1215–0023; LS 207

On occasion

Businesses or other for profit

18,900 respondents; 15 minutes per response; 4,725 total hours; 1 form

The form allows insurance carriers and self-insured employers to controvert claims under the Longshore Act and extension.

Employment Standards Administration

Certification of Funeral Expenses

1215–0027; LS–265

On occasion

Businesses or other-profit; small businesses or organizations

195 respondents; .25 hours per response; 49 total hours; 1 form

The form requires information on funeral expenses under the Longshore Act and extension.

Employment Standards Administration

Pre-Hearing Statement

1215–0085; LS–18

On occasion

Individuals or households; businesses or other for-profit

6,800 responses; .16 hours per response; 1,088 total hours; 1 form

The form is used to refer cases to the Office of Administrative Law Judge for

formal hearing under the Longshore Act and extensions.

Employment Standards Administration
Housing Occupancy Certificate—MSPA
1215–0158; WH–520
Annually
Individuals or households; farms; businesses or other for-profit; small businesses or organizations
260 respondents; 3½ minutes per response; 17 total hours; 1 form

The Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property occupied by migrant agricultural workers to obtain a certificate of occupancy. The WH–520 form is used by the Wage and Hour Division to inspect and approve housing.

Occupational Safety and Health Administration
1218–0126
Acryonitrile
On occasion
Businesses or other for-profit; small businesses or organizations
1 respondent; .08 hours per response; 1 total hour

The purpose of this standard and its information collection requirements is to provide protection for employees from the adverse health effects associated with occupational exposure to Acrylonitrile. The standard also requires that OSHA have access to various records to ensure that employers are complying with the disclosure provisions of the Acrylonitrile standard.

Occupational Safety and Health Administration
1218–0133
Asbestos (General Industry)
On occasion
Businesses or other for-profit; small businesses or organizations
22 respondents; .08 hours per response; 2 total hours

The Asbestos standard for General Industry and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Asbestos in General Industry. The standard requires that OSHA have access to the employers' various written plans and records including exposure, medical, information and training, and compliance. OSHA access ensures that employers are complying with disclosure provisions of the Asbestos General Industry Standard.

Occupational Safety and Health Administration
1218–0134
Asbestos (Construction Industry)
On occasion
Businesses or other for-profit; small businesses or organizations
98 respondents; .28 hours per response; 27 total hours

The Asbestos standard for construction and its information collection requirements provide protection for employees from the adverse health effects associated with occupational exposure to Asbestos in construction. The standard requires that OSHA have access to the employer's various written plans and records including exposure, medical, information and training. OSHA access ensures that employers are complying with disclosure provisions of the Asbestos Construction Standard.

Bureau of Labor Statistics
Hours at Work Survey
1220–0076
Annual
Businesses or other for-profit; small businesses or organizations
11,000 responses; .5 hour per respondent; 5,250 total hours

Form number	Affected industries	Respondents	Minutes per response	Total burden
2000N	Service-Producing	4,250	½ hour	2,125
2000P	Goods-Producing	5,750	½ hour	2,875
	Follow-up (RAS)	1,000	¼ hour	250

"Labor Statistics Productivity" Ratios of hours at work to hours paid are needed to measure labor input for productivity statistics. The ratios of hours at work to hours paid provided by this survey are used to convert hours paid data from the Current Employment Statistics Program to hours at work. The resulting hours at work measures are then incorporated into the Bureau's labor and multifactor productivity statistics published annually and quarterly. A follow-up response analysis survey (RAS) assesses the conceptual accuracy of these ratios. The collection of information on hours at work began in 1982 and must be done annually because of the cyclical sensitivity of productivity measures.

Signed at Washington, DC, this 16th day of March 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93–6369 Filed 3–18–93; 8:45 am]

BILLING CODE 4510–23–M

Employment and Training Administration

Emergency Unemployment Compensation (EUC) Program; Notice of Changes IN EUC Periods

This notice announces recent changes in benefit levels under the Emergency Unemployment Compensation (EUC) Program in three States.

Background

The following trigger changes have occurred in States since publication of the last notice:

- January 31, 1993—Oregon and Washington increased to 26 weeks.
- February 21, 1993—Idaho increased to 26 weeks.

New claimants coming into the program in these States on or after the specified dates as well as claimants with an "applicable benefit year" that previously exhausted EUC at a lower level are eligible for the higher number of weeks.

In addition, Public Law 102–164 permits the Governor of a State to elect to trigger off an Extended Benefit Period in order to provide payment of EUC benefits to individuals who have exhausted their rights to regular compensation under State law. Since the publication of the last notice, in accordance with section 101(e) of Public Law 102–164, the Governor of Alaska has elected to trigger off Extended Benefits and instead pay EUC benefits.

Information for Claimants

The duration of benefits payable in the Emergency Unemployment Compensation Period, and the terms and conditions on which they are payable, are governed by the Act and the operating instructions issued to the States by the U.S. Department of Labor. The State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits

and is potentially eligible for EUC benefits (20 CFR 615.13(c)).

Persons who believe they may be entitled to EUC benefits, or who wish to inquire about their rights under the program, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, DC, on March 12, 1993.

Carolyn M. Golding,

Acting Assistant Secretary of Labor.

[FR Doc. 93–6368 Filed 3–18–93; 8:45 am]

BILLING CODE 4510–30–M

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. MS930053, dated Feb. 19, 1993.

Agencies with construction pending projects, to which this wage decision would have been applicable, should utilize the project determination procedure by submitting a SF–308. (See Regulations, 29 CFR part 1, Section 1.5.) Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is within ten (10) days of this notice, the contract specifications need not be affected.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama: AL93–3 (Feb. 19, 1993) .....
Florida:
FL93–38 (Feb. 19, 1993) .....
FL93–39 (Feb. 19, 1993) .....
FL93–45 (Feb. 19, 1993) .....
Georgia:
GA93–3 (Feb. 19, 1993) .....
GA93–4 (Feb. 19, 1993) .....
Massachusetts:
MA93–1 (Feb. 19, 1993) .....
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Mississippi: MS93–22 (Feb. 19, 1993) .....
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NY93–2 (Feb. 19, 1993) .....
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Pennsylvania:
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Virginia: VA93–69 (Feb. 19, 1993) .....
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Volume II

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Indiana:
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New Mexico: NM93–1 (Feb. 19, 1993) .....
Oklahoma:
OK93–16 (Feb. 19, 1993) .....
OK93–18 (Feb. 19, 1993) .....

Wisconsin: WI93–1 (Feb. 19, 1993) .....

Volume III

Colorado: CO93–10 (Feb. 19, 1993) .....
Montana: MT93–1 (Feb. 19, 1993) .....
North Dakota: ND93–2 (Feb. 19, 1993) .....
Washington: WA93–1 (Feb. 19, 1993) .....
Wyoming: WY93–4 (Feb. 19, 1993) .....

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscripton(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 12th day of March 1993.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 93–6164 Filed 3–18–93; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board; Meeting

AGENCY: National Institute for Literacy Advisory Board, National Institute for Literacy.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Advisory Board (Board). This notice also describes the function of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: April 3, 1993, 9 a.m. to 4 p.m., April 4, 1993, 9 a.m. to 4 p.m.

ADDRESSES: National Institute for Literacy, 800 Connecticut Avenue, NW., suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Thomas R. Hill, Executive Officer, National Institute for Literacy, 800 Connecticut Avenue, NW, suite 200, Washington, DC 20006. Telephone (202) 632–1500.

SUPPLEMENTARY INFORMATION: The Board is established under section 384 of the Adult Education Act, as amended by title I of Public Law 102–73, the National Literacy Act of 1991. The Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and Health and Human Services, which administers the National Institute for Literacy (Institute). The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Director of the Institute. In addition, the Institute consults with the Board on the award of fellowships.

On April 3 and 4, 1993, from 9 a.m. to 4 p.m., the meeting of the Board will be closed to the public to review applications and discuss qualifications of candidates for the position of Institute Director of the Board. The meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2 and under exemption (6) of section 552b(c) of title 5 U.S.C. Discussion of the applications will include consideration of the qualifications and fitness of the candidates and will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the National Institute for Literacy, 800 Connecticut Avenue, NW, suite 200, Washington, DC 20006 from 8:30 a.m. to 5 p.m.

Dated: March 16, 1993

Franmarie Kennedy-Keel,

Interim Director, National Institute for Literacy.

[FR Doc. 93–6383 Filed 3–18–93; 8:45 am]

BILLING CODE 6055–01–M

NUCLEAR REGULATORY COMMISSION

Commercial Grade Procurement and Dedication Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will hold a public workshop to discuss and solicit comments on key procurement and commercial grade item (CGI) dedication issues, and a draft inspection procedure for use by the NRC during inspection of licensee CGI procurement and dedication activities.

DATES: The meeting will be held from 8 a.m. to 5:30 p.m. on April 21, 1993, and 8 a.m. to 12 noon on April 22, 1993. Registration for the workshop should be received by the Hyatt Regency Hotel by April 16, 1993, however, late registrations will be accepted at the workshop. Interested persons should submit written comments by May 21, 1993. Comments received after this date will be considered if it is practical to do so, but the Commission can assure consideration only for comments received on or before this date. The proposed effective date of the inspection procedure, which includes related guidance, is on or about August 1, 1993.

ADDRESSES: The meeting will be held at the Hyatt Regency Hotel, Dallas/Fort Worth Airport, P.O. Box 619014, Dallas, TX 75261. Telephone (214) 453–1234. Persons planning to attend the workshop are requested to complete a registration form, which includes accommodation information, and send it directly to the Hyatt Regency Hotel. Registration forms can be obtained from Ms. Karen Brunson, M/S 9–D–4, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 504–2961. Submit written comments to: Chief, Rules Review and Directives

Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or hand deliver comments to U.S. Nuclear Regulatory Commission, 7920 Norfolk Avenue, Bethesda, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. The proposed guidance on key dedication issues and the draft revision of the NRC inspection procedure, may be examined and/or copied for a fee at the NRC Public Document Room, 2120 L Street, NW., Washington, DC 20555. To access these documents, request NRC memorandum dated March 25, 1993, from Leif J. Norrholm to Charles E. Rossi on "Commercial Grade Procurement and Dedication Workshop."

FOR FURTHER INFORMATION CONTACT: Uldis Potapovs, M/S 9–D–4, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 504–2959.

SUPPLEMENTARY INFORMATION: From February 1991 to June 1992 the NRC conducted eight assessments and five pilot inspections at power reactor sites that identified weaknesses in the implementation of licensee programs for the procurement and dedication of CGIs to be used in safety-related applications. Comments have been received regarding the results of these assessments and inspections from several utilities and the Nuclear Management and Resources Council (NUMARC). The NRC has prepared a revision to NRC Inspection Procedure 38703, "Commercial Grade Procurement Inspection," including guidance on key dedication issues, to clarify the criteria that will be used in future inspections of licensee CGI procurement and dedication activities.

The NRC believes that it would be beneficial to obtain public comment on the aforementioned documents from all interested parties, including special interest groups. Key dedication issues, including specific dedication examples; the draft inspection procedure; and, the staff's plans for related enforcement activities will be discussed at the public workshop. The workshop will consist of an opening plenary session, break-out sessions, and a closing summary session.

During the plenary session, NRC representatives will briefly discuss:

(1) Recent NRC activities since completion of the pilot inspections;
(2) An overview of key dedication issues; and
(3) The general content of the proposed inspection procedure and its enforcement plans.

Representatives of NUMARC will also discuss industry perspectives and positions. Following the plenary session, all attendees will be assigned to one of three break-out groups, each group will participate in the following topics:

Session A. Dedication Issues—Selection and Verification of Critical Characteristics, Like-for-like Replacements, and Surveys
Session B. Dedication Issues—Sampling, Traceability, and Material Certification
Session C. Inspection Process

Comments or suggestions for improvement should be made in writing as prescribed in this notice. The break-out sessions are intended to provide attendees a better opportunity to participate in the discussions of key dedication issues and approaches, and to promote a constructive exchange of ideas between the participants. NRC staff and industry representatives will attend each of the break-out groups to provide perspectives on CGI procurement and dedication activities. The workshop will conclude with a summary session where the issues discussed during each group will be presented, followed by a question-answer period.

Comments received on the draft guidance, will be considered by the staff in finalizing its inspection guidance.

Dated at Rockville, Maryland, this 15th day of March, 1993.

For the Nuclear Regulatory Commission.

Uldis Potapovs,

Section Chief, Reactive Inspection Section No. 1, Vendor Inspection Branch, Division of Reactor Inspection and Licensee Performance, Office of Nuclear Reactor Regulation.

[FR Doc. 93–6390 Filed 3–18–93; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32000; File No. SR–Phlx–92–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Increasing the Size of Orders Eligible for Automatic Execution Through the Automatic Execution Feature of the Exchange's Automated Options Market System

March 15, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 21, 1992, the Philadelphia Stock Exchange ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to permit public customer order of up to 25 contracts in all equity options traded on the Exchange to be eligible for automatic execution through the automatic execution ("Auto-X") feature of the Exchange's Automated Options Market ("AUTOM") system. The AUTOM system, approved by the Commission as a pilot program, is the Phlx's electronic order routing, delivery and automatic execution system for small option orders entered into the Phlx trading floor on behalf of public customers. Currently, the Auto-X feature is available for public customer orders of up to 20 contracts in size in Phlx equity options.

The text of the proposed rule change is available at the Office of the Secretary, Phlx and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to increase, from 20 to 25 contracts, the order size for Phlx equity options eligible for execution through the Auto-X feature of the AUTOM system. Since approving AUTOM as a pilot program in 1988, the Commission has approved various amendments and extension of the system.[1] Most recently,

[1] *See* Securities Exchange Act Release Nos. 25540 (March 31, 1988), 53 FR 11390 (April 6, 1988);

the Auto-X feature of AUTOM was expanded to include orders of up to 20 contracts. Currently, eligibility for Auto-X is limited to public customer market and marketable limit orders of up to 20 contracts in size.

The proposed expansion of the Auto-X order eligibility size from 20 to 25 contracts is in response to the existing competitive environment among the options market centers. The Exchange also believes that the effectiveness of the AUTOM system should be improved by offering retail broker-dealers and their clients an expanded automatic execution parameter. Further, the Phlx believes that this limited expansion of the Auto-X feature of AUTOM should not impose any significant additional burdens to the operation and capacity of the AUTOM system and may increase its effectiveness by increasing the number of orders eligible for automatic execution and by reducing manual processing.

Accordingly, the Exchange believes that the proposed limited expansion of the Auto-X feature of AUTOM to 25 contracts for Phlx-traded equity options is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5) in particular, in that it is designed to promote just and equitable principles of trade as well as to remove impediments to and perfect the mechanism of a free and open market. The Exchange also believes that the proposed rule change is consistent with section 11A of the Act because it fosters fair competition among exchange markets.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

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 self-regulatory organization 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 9, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-6387 Filed 3-18-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19331; File No. 812-8248]

ITT Life Insurance Corporation, et al.

March 15, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: ITT Life Insurance Corporation ("ITT Life"), ITT Life Insurance Corporation Separate Account One (the "Separate Account") and Hartford Equity Sales Company, Inc.

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) for exemptions from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order to permit the deduction of a mortality and expense risk charge from the assets of the Separate Account under a deferred variable annuity contract (the "Contract").

FILING DATE: The application was filed on January 12, 1993 and amended on March 10, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 9, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Kathleen McGah, Esq., Hartford Life Insurance Companies, 200 Hopmeadow Street, Simsbury, CT 06070.

FOR FURTHER INFORMATION CONTACT: Wendy Finck Friedlander, Senior Attorney, at (202) 272-3045, or Michael Wible, Special Counsel, 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 Commission's Public Reference Branch.

Applicants' Representations

1. ITT Life is stock life insurance company engaged in the business of writing individual and group life insurance and annuities in the District of Columbia and all states except New York.

2. The Separate Account was established by ITT Life and has filed a registration statement under the 1940 Act as a unit investment trust. It will issue only flexible premium deferred variable annuity contracts (the "Contracts").

27599 (January 9, 1990), 55 FR 1751 (January 18, 1990); 28978 (March 15, 1991), 56 FR 12050 (March 21, 1991); 29682 (September 9, 1991), 56 FR 46816 (September 16, 1991); and 29837 (October 18, 1991), 56 FR 55146 (October 24, 1991).

[2] 17 CFR 200.30-3(a)(12) (1992).

3. Hartford Equity Sales Company, Inc., the principal underwriter for the Contracts, is a broker-dealer registered under the Securities Exchange Act and is a member of the National Association of Securities Dealers, Inc.

4. There is no deduction for sales expenses from purchase payments when made, but a contingent deferred sales charge ("CDSC") may be assessed when a Contract is surrendered. CDSCs are assessed first from purchase payments in the order received and then from other Contract values. The CDSC is a percentage of the amount withdrawn (not to exceed the aggregate amount of the purchase payments made), as follows:

Charge (percent)	No. of years from purchase payment
7	1
6	2
5	3
4	4
3	5
2	6
1	7
0	8 or more.

5. An annual maintenance fee of $25 is deducted from Contract values each Contract year. Applicants represent that the annual maintenance fee will not be more than the actual cost of the administrative services provided.

6. For assuming mortality and expense risks under the Contracts, ITT Life will make a daily charge at the annual rate of 1.25% against all Contract values held in the Separate Account. Approximately 0.90% of that charge is for assuming mortality risks and 0.35% is for assuming expense risks. The rate of the mortality and expense risk charge cannot be increased. ITT Life assumes mortality risks by undertaking to make annuity payments under the Contract option selected by the Contract owner regardless of how long an annuitant may live, and regardless of how long all annuitants as a group may live. ITT Life also assumes mortality risks by undertaking payment of a minimum death benefit under the Contract. ITT Life assumes expense risks that administrative fees may be insufficient to cover the actual expenses. If the mortality and expense risk charge is insufficient to cover the actual cost of the expense risk undertaking, ITT Life will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be surplus to ITT Life and will be available for any proper corporate purpose. ITT Life expects a reasonable profit from the mortality and expense risk charge.

Applicants' Legal Analysis and Conditions

1. Applicants request an exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality and expense risk charge from the assets of the Separate Account under the Contract.

2. Applicants represent that the mortality and expense risk charge of 1.25% is within the range of industry practice for comparable annuity contracts as determined by a survey of comparable contracts issued by other insurance companies. ITT Life undertakes to maintain at its home office, available to the Commission upon request, a memorandum setting forth in detail the methodology underlying this representation and the contracts analyzed.

3. Applicants state that there is a likelihood that the proceeds from explicit sales loads will be insufficient to cover the expected costs of distributing the Contracts. Any shortfall will be covered from the assets of ITT Life's general account, which may include profit from the mortality and expense risk charge. Therefore, Applicants have concluded that there is a reasonable likelihood that the Separate Account's distribution financing arrangement will benefit the Separate Account and Contract owners. ITT Life undertakes to maintain at its home office, and make available to the Commission upon request, a memorandum setting forth the basis for this representation.

4. Applicants represent that the Separate Account will invest only in open-end management investment companies that have undertaken to have a board of directors, a majority of whom are not interested persons of the company, formulate and approve any plan to finance distribution expenses pursuant to rule 12b–1 under the 1940 Act.

Conclusion

Applicants assert that, for the reasons and upon the facts set forth above, the requested exemption from sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to deduct the mortality and expense risk charge from the assets of the Separate Account under the Contract meets the standards in section 6(c) of the 1940 Act. Applicants assert that the exemption requested is necessary and appropriate in the public interest and consistent with the protection of investors and the policies and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6332 Filed 3–18–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25759]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

March 12, 1993.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 5, 1993 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Monongahela Power Co., et al. (70–6757)

Monongahela Power Company ("Monongahela"), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company ("Potomac Edison"), 10435 Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greenburg, Pennsylvania 15601 (collectively, the "Companies"), all wholly owned public-utility subsidiary companies of Allegheny Power System Inc., a registered holding company, have filed a post-effective amendment to their declaration under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

The County Commission of Monongahela County, West Virginia ("County Commission"), is planning to issue three new series of pollution control revenue bonds in the aggregate principal amount of not more than $23.4 million and maturing in 2013 ("Series B Bonds"). The proceeds from the Series B Bonds will be used to effect the redemption of three series of presently outstanding pollution control revenue bonds, all of which are 9½%, Series A Bonds issued by the County Commission. The Series A Bonds were used to finance certain improvements to pollution control facilities at Fort Martin Station ("Power Station"), located in Monongahela County, West Virginia.[1] The Series A Bonds include: (i) $7,050,000 principal amount for Monongahela; (ii) $8,600,000 principal amount for Potomac Edison; and (iii) $7,750,000 principal amount for West Penn.

The Companies propose to, through December 31, 1994, enter into the refunding of the Series A Bonds and to issue new promissory notes insofar as the terms and conditions of the Series B bonds affect the payments to be made by the Companies under the promissory notes presently outstanding. The Series B Bonds will be issued under a supplemental trust indenture with a corporate trustee, approved by the Companies, and will be sold at such time, at such interest rate and for such price as shall be approved by the Companies. However, the Companies state that they will not enter into the proposed refunding transaction unless the estimated present value savings derived from the net difference between interest payments on the new issues of comparable securities and on the securities to be refunded is, on an after tax basis, greater than the present value of all redemption and issuing costs, assuming an appropriate discount rate. The discount rate used shall be the estimated after tax interest rate on the Series B Bonds to be issued.

Concurrently with the issuance of the Series B Bonds, the Companies will issue non-negotiable promissory notes ("Pollution Control Notes") corresponding to the principal amount, interest rates and redemption provisions (which may include a special right of the holder to require the redemption or repurchase of the bond at stated intervals) and having installments of principal corresponding to any mandatory sinking fund payments and stated maturities. The Notes will be secured by a second lien on the Facilities and certain other properties, pursuant to a Deed of Trust and Security Agreement delivered by each Company to the trustee creating a security interest in the Facilities and certain other property (subject to the lien securing each Company's first mortgage bonds). Payments on such Notes will be made to the Trustee under supplements to the existing indentures and shall be applied by the Trustee to pay the maturing principal and redemption price of and interest and other costs on the Series B Bonds as the same become due. Each Company also proposes to pay any trustees' fees and expenses incurred by the County Commission. The Companies request an exception from the competitive bidding requirements of rule 50 under subsection (a)(5) thereof in connection with the issuance of the Notes.

[1] The Power Station is owned jointly by the Companies and Duquesne Light Company as tenants in common. For Unit 1 of the Power Station, the companies' respective interests are: Monongahela, 25%; Potomac Edison, 25%; West Penn, 0%; and Duquesne, 50%. For Unit 2 of the Power Station, the companies' respective interests are: Monongahela, 20%; Potomac Edison, 30%; West Penn, 50%; and Duquesne, 0%.

New Orleans Public Service Inc. (70–8089)

New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana, a public-utility subsidiary company of Entergy Corporation ("Entergy"), a registered holding company, has filed an application-declaration under sections 6(a)(2), 7, 9(a), 10 and 12(c) of the Act and rule 42 thereunder. An initial notice of the filing of the application-declaration was issued by the Commission on January 15, 1993 (HCAR No. 25736) ("Notice").

In the Notice, NOPSI requested authorization to: (i) Redeem, in accordance with the redemption and/or sinking fund provisions established at the time of initial issuance thereof, up to $20 million aggregate par value of preferred stock to be issued under rule 52; and (ii) acquire by means of tender offer, negotiated, open market or other forms of purchase: (a) up to $135 million aggregate principal amount of one or more series of NOPSI's first mortgage bonds and/or general and refunding mortgage bonds; and (b) up to $6.5 million aggregate par value of one or more series of NOPSI's outstanding preferred stock.

NOPSI additionally requests authorization to create one or more new classes of its preferred stock with a par value other than $100 ("Non-$100 Preferred"). NOPSI currently has two classes of preferred stock with a par value of $100 ("$100 Preferred"), with a total of four series currently issued and outstanding. The proposed Non-$100 Preferred will have the same rank and be identical with the existing class of $100 Preferred, except as to the par value of the shares of such class or classes, the variations between the series of such class or classes and the series of the classes of $100 Preferred, and the voting entitlement per share of such class or classes in certain circumstances. Prior to creating such class or classes, NOPSI will take appropriate corporate actions, which may include amending its Restatement of Articles of Incorporation and obtaining the consent of its common stockholder, Entergy.

The Columbia Gas System, Inc., et al. (70–8145)

The Columbia Gas System, Inc. ("Columbia"), a registered holding company, and The Inland Gas Company, Inc. ("Inland"), Columbia's wholly owned nonutility subsidiary company, each located at 20 Montchanin Road, Wilmington, Delaware 19807, have filed an application pursuant to sections 9 and 10 of the Act.[2]

Inland, a Kentucky corporation, formerly owned and operated an interstate natural gas pipeline, gathering facilities and natural gas producing properties, and also engaged in the marketing of natural gas. On October 1, 1992, Inland sold most of its assets to two associate companies, Columbia Natural Resources, Inc. ("Columbia Natural") and Columbia Gas of Kentucky, Inc. Inland transferred its service obligations to these companies and discontinued all gas sales and transportation services.

Columbia now proposes, pursuant to section 2(b) of the Gas Related Activities Act of 1990, that Inland engage in the marketing of natural gas, both for associate and nonassociate companies. Inland also proposes to engage in activities related to the management and supply, sale, and transportation of natural gas. Finally, Inland will engage in commodity hedging activities, including the purchase and sale of natural gas futures and options, commodity price swaps, and exchange-for-physical transactions.

[2] Columbia and its wholly owned subsidiary company, Columbia Gas Transmission Corporation ("Transmission"), filed for protection with the Bankruptcy Court for the District Court of Delaware on July 31, 1991. Columbia is currently a debtor in possession under Chapter 11 of the Bankruptcy Code. The cases have been consolidated for procedural purposes and are jointly administered under the caption *In re The Columbia Gas System, Inc. and Columbia Gas Trans. Corp.*, No. 91–803. Transmission is not a party to this application.

Columbia states that Inland's primary objective will be to market system production on behalf of Columbia's wholly owned production companies, Columbia Gas Development Corporation and Columbia Natural. Inland will act as agent for these companies and will aggregate and market their production. Columbia asserts that this arrangement will enable Inland to provide a competitively priced and reliable gas supply in varying quantities to public-utility companies and ultimate consumers. Columbia states that Inland's operations will benefit consumers by increasing competition in the supply of natural gas. Columbia states that Inland's operations will also increase the amount of natural gas transported over the pipelines of Columbia's pipeline subsidiary companies.

Columbia also states that the proposal would not be detrimental to the interests of consumers of the Columbia system or to the proper functioning of the system. No associate company of Columbia is obligated to engage in any transactions with Inland. Columbia states that Inland's cash on hand of approximately $6.8 million, as of November 30, 1992, is sufficient to meet its current operational needs. Columbia's maximum additional investment in Inland is expected to be $30 million, which it asserts is a *de minimis* amount in light of Columbia's total assets of approximately $6.5 billion.

Georgia Power Company (70–8159)

Georgia Power Company ("Georgia Power"), 333 Piedmont Avenue, N.E., Atlanta, Georgia 30308, an electric public-utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration under section 12(d) of the Act and rule 44 thereunder.

Georgia Power proposes to sell to Sawnee Electric Membership Corporation, a nonassociate company, for an aggregate sales price of $243,916.92: (1) Certain distribution facilities ("Facilities") that were installed by Georgia Power to provide retail electric service to the Lakeland Plaza Shopping Center located in the northern portion of metropolitan Atlanta, Georgia; and (2) certain easements in relation to the Facilities.

The original book value of the Facilities was $294,993.34, and the net book value as of April 1993 is estimated to be $272,803.48.

The sales price was negotiated at arm's length following a determination by the Georgia Public Service Commission that Georgia law prohibits Georgia Power from providing retail electric service to the Lakeland Plaza Shopping Center. The Facilities are currently in the rate base as capitalized investment and will be removed from the rate base upon sale. Georgia Power will obtain from its First Mortgage Bond Trustee a release of the Facilities from the lien of Georgia Power's First Mortgage Bond Indenture.

Ohio Valley Electric Corporation (70–8163)

Ohio Valley Electric Corporation ("OVEC"), P.O. Box 468, Piketon, Ohio 45661, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed a declaration under sections 6(a) and 7 of the Act and rule 50(a)(5) thereunder.

OVEC proposes to issue and sell promissory notes ("Notes"), from time-to-time through December 31, 1994, up to an aggregate principal amount of $100 million to one or more commercial banks, financial institutions or other institutional investors.

The proposed loan agreement ("Agreement") and the Notes thereunder would be for a term of not more than thirty years from the date of borrowing. The Agreement would provide that the Notes bear interest at either a fixed rate, a fluctuating rate or some combination of fixed and fluctuating rates. The actual rate of interest which each Note shall bear shall be subject to further negotiation between OVEC and the lender. Any fixed rate of interest on the Notes will not be greater than 250 basis points above the yield at the time of issuance of the Notes to maturity of United States Treasury obligations that mature on or about the date of maturity of the Notes. Any fluctuating rate will not be greater than 200 basis points above the rate of interest announced publicly by a major bank from time-to-time as its base or prime rate. However, in the event an investment bank or financial institution arranges for a borrowing from a third party, such institution may charge OVEC a placement fee not to exceed ⅞% of the principal amount of such borrowing.

The Agreement may specify that, in the event a Note bearing interest at a fixed rate is paid prior to maturity in whole or in part and the fixed rate at that time exceeds the yield to maturity of certain United States Treasury securities maturing on or close to the Note, OVEC shall pay to the lender an amount based on the present value of such prepaid amounts discounted at such treasury yield.

Any proceeds realized from the sale of the Notes, together with any other funds which may become available to OVEC, will be used to pay its general obligations and to repay short-term debt and expenditures incurred in connection with payments for purchased power from Indiana-Kentucky Electric Corporation ("IKEC"), including IKEC's program to comply with the Clean Air Act Amendments of 1990.

OVEC has requested an exception from the competitive bidding rules of rule 50 under rule 50(a)(5) so that it may begin negotiating the terms and conditions for the Notes. It may do so.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–6333 Filed 3–18–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Atlanta District Advisory Council; Public Meeting

The U.S. Small Business Administration Atlanta District Advisory Council will hold a public meeting from 8 a.m. on Thursday, April 22, 1993, to 12 noon on Friday, April 23, 1993, at the DeSoto Hilton Hotel, Savannah, Georgia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309, (404) 347–4749.

Dated: March 15, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–6393 Filed 3–18–93; 8:45 am]

BILLING CODE 8025–01–M

St. Louis District Advisory Council; Public Meeting

The U.S. Small Business Administration St. Louis District Advisory Council will hold a public meeting at 9:30 a.m. on Wednesday, March 24, 1993 at 815 Olive Street, North Conference Room, Mid-level, St. Louis, Missouri, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Mr. Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, room 242, St. Louis, Missouri 63101, (314) 539–6600.

Dated: March 16, 1993.

Dorothy A. Overal,

Acting Assistant Administrator, Office of Advisory Councils.

[FR Doc. 93–6394 Filed 3–18–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application to Impose and Use Passenger Facility Charge (PFC) at Natrona County International Airport, Casper, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Natrona County International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 19, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Alan E. Wiechmann, Manager, Denver Airports District Office, DEN–ADO, Federal Aviation Administration, 5440 Roslyn, suite 300, Denver, CO 80216–6026.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Eddie F. Storer, Airport Manager, Natrona County International Airport, Casper, Wyoming, at the following address: 8500 Fuller Street, Casper, Wyoming 82604.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Natrona County International Airport, under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Don O'Brien, (303) 286–5549; Denver Airports District Office, DEN–ADO; Federal Aviation Administration; 5440 Roslyn, suite 300; Denver, Colorado 80216–6026. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use a PFC at Natrona County International Airport, under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On March 12, 1993, the FAA determined that the application to impose and use the revenue from a PFC submitted by Natrona County International Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 18, 1993.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September 1, 1993.

Proposed charge expiration date: July 1, 1997.

Total estimated PFC revenue: $656,144.00.

Brief description of proposed project: Airport planning studies; land acquisition of safety area; access road improvements; snow removal equipment; security access control system and taxiway signs; safety area grading; terminal building improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA regional Airports office located at: Federal Aviation Administration, Northwest Mountain Region, Airports Division, ANM–600, 1601 Lind Avenue SW., suite 540, Renton, WA 98055–4056.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Natrona County International Airport.

Issued in Renton, Washington on March 12, 1993.

Edward G. Tatum,

Manager, Airports Division, Northwest Mountain Region.

[FR Doc. 93–6376 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Forsyth County, North Carolina

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project within the City of Winston-Salem and Forsyth County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Roy C. Shelton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, suite 410, Raleigh, North Carolina 27601, Telephone (919) 856–4350.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed Northern Beltway (Eastern Section) in Winston-Salem and Forsyth County. The proposed action would be the construction of a multi-lane divided, controlled access highway on new location from US 52 north of Winston-Salem to I–40 Business east of Winston-Salem. This proposed facility is a portion of a planned outer belt facility which ultimately will provide the circumferential travel, ease the traffic burden through the Winston-Salem urban area, and will relieve congestion on US 52, US 421, and I–40 Business. The proposed action is a part of the 1987 Winston-Salem/Forsyth County Thoroughfare Plan.

Alternatives under consideration include: (1) The "no-build", (2) improving existing facilities, and (3) a controlled access highway on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting and meetings with local officials and neighborhood groups will be held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to

the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: March 11, 1993.

Roy C. Shelton,

Operations Engineer, FHWA, Raleigh, North Carolina.

[FR Doc. 93–6320 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–22–M

Maritime Administration

Status of Circular Letters to Subsidized Operators

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Edmond J. Fitzgerald, Director, Office of Trade Analysis and Insurance, Maritime Administration, Washington, DC 20590, telephone (202) 366–2400.

By notice published in the **Federal Register** issue of September 18, 1992 (57 FR 43284), the Maritime Administration (MARAD) stated that on August 31, 1992, MARAD made the following determinations and took the following actions with respect to Circular Letters (CLs) that had been issued to subsidized operators:

1. Noted those CLs which had expired by their own terms or were superseded or cancelled by subsequent CLs.
2. Terminated those CLs which were no longer applicable to current MARAD programs or which were no longer needed to implement those programs.
3. Noted those CLs which are to be retained, which are being reviewed to determine if any revisions are necessary.
4. Confirmed that all CLs to subsidized operators engaged in the United States-Union of Soviet Socialist Republics Grain Trade have been determined to have expired by their own terms on December 31, 1981.

Two additional CLs have been located which were not included in the CLs which were subject to the actions taken by MARAD on August 31, 1992. CL No. 4–60, issued on September 30, 1960, and CL No. 1–61, issued on January 26, 1961, address the posting of wage scales, manning scales and working conditions on board subsidized ships, pursuant to section 301(a) of the Merchant Marine Act, 1936, as amended (Act), and Article II–8 of the operating-differential subsidy agreement (ODSA). These two CLs were cancelled by MARAD on March 1, 1993. The requirements set forth in the two CLs are already stated in the Act and Article II–8 of the ODSA.

Individuals wishing to review the various lists of CLs to subsidized operators which were involved in the Agency's determinations and actions of August 31, 1992, and March 1, 1993, may do so in the Office of the Secretary, Maritime Administration, room 7300, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

By Order of the Maritime Administration.

Dated: March 15, 1993.

James E. Saari,

Secretary.

[FR Doc. 93–6377 Filed 3–18–93; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: March 12, 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.

Special Request

The Department is requesting approval of the Internal Revenue Service survey, described below, by March 31, 1993, in order to conduct this survey by April 16, 1993, immediately after the 1993 filing season. To allow public review and comment on this survey a copy will accompany this notice. Comments should be received by close of business March 24, 1993.

Internal Revenue Service

OMB Number: New
Form Number: None
Type of Review: New collection
Title: 1993 IRS Customer Satisfaction Survey
Description: Data collected will be used to evaluate U.S. adult residents' opinions of the services and products provided by the IRS. Data will provide the first trend measurement of customer satisfaction that will be used to identify areas needing service quality improvement and to direct improvement efforts.
Respondents: Individuals or households.
Estimated Number of Respondents: 6,000.
Estimated Burden Hours Per Respondent:
Telephone Interviews—13 minutes.
Questionnaire, section 1—5 minutes.
Questionnaire, Remainder—1 hour, 37 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 529 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

IRS Customer Satisfaction Survey

Survey Questionnaire

OMB Number:
Expires:
Code number: _____
Date: _____
Start time: _____
Finish time: _____
Telephone number:
Interviewer name:

Hello, my name is _____ and I am calling from _____, on behalf of the Internal Revenue Service. May I please speak with an adult in the household over the age of 18?
If Business—> Terminate
Adult Contacted:
Introduction:

Hello, my name is _____ and I am calling from _____, on behalf of the Internal Revenue Service. We have been contracted by the IRS to conduct a study to assess people's opinions regarding the various services that the IRS provides.

So that I can select one adult in your household to participate in the survey, may I speak with the adult in the household, over the age of 18, who had the most recent birthday.

[Select the Person Named. If the Selected Person is not the Person on the Telephone, Ask to Speak With That Person and Repeat the Introduction.]

You have been selected through a random selection of your telephone number and we would like to ask you some questions about your opinions of

the IRS. The survey will take less than _____minutes.

If Respondent is Reluctant: Your identity, including your telephone number, will be kept strictly confidential and will not be given to the IRS. This study is being conducted for the IRS but only the study results will be given to the IRS. Your responses will remain completely anonymous.

If Respondent Asks how Number was Obtained and/or is Still Reluctant: You were selected for this survey through a random selection of your telephone number. This survey provides you with the opportunity to tell the IRS your opinion of its services and products and to make suggestions for how the IRS can improve its services and products.

If Respondent Asks About the Project: The IRS is very interested in people's opinions of the services and products they provide. To do so, they have contracted us to conduct this survey to determine people's satisfaction with the IRS. If you would like, I can give you an address where you can send your comments regarding this survey.

If Respondent States That he/she has Already Participated in an IRS Survey: This survey is being conducted for a different division of the IRS. This survey will provide you with the opportunity to give your overall opinion about the services and products provided by the IRS. Would you be willing to share your opinions with us by participating in this survey? If Respondent Answers no, Terminate Interview.

If Respondent Does not Know who the IRS Is: The Internal Revenue Service, IRS for short, is the federal agency responsible for collecting income taxes, enforcing the tax laws, and helping citizens to understand and fulfill their tax obligations.

Read Only if Respondent Asks for Address: Send your comments and suggestion to both:

Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Survey Number 1545–1283, Washington, DC 20224.

and

Office of Management and Budget, Paper Reduction Project, Survey Number 1545–1283, Washington, DC 20503.

Section 1: Perceptions

I am going to begin by asking you to give me your opinions about the IRS with respect to several statements. You may base your answers on your direct experience with the IRS, or through information you have obtained from other people or the media.

[Alternate This Question as First Question and Last Question]

On a scale from 1 to10, where 1 means poor and 10 means excellent, overall, how well do you think the IRS does its job?

_____

Now, on scale from 1 to 10, where 1 means *strongly disagree* and 10 means *strongly agree*, please give me your impression of the following statements with respect to the IRS. If you believe that you do not have enough information to give an opinion to a particular question, please feel free to simply tell me that you "Don't Know."

_____Don't Know Refused

[Question Sequence Randomized for Perceptions Battery]

1. The IRS provides people with the forms and information they need to complete their tax returns.
2. The IRS provides clear and easy-to-use tax forms and instructions.
3. The IRS accurately answers questions about tax issues.
4. The IRS helps people complete their tax returns correctly.
5. The IRS keeps accurate records of the taxes that people and companies owe and pay.
6. The IRS sends refund checks within a reasonable amount of time.
7. The IRS enforce the tax laws when people and companies do not pay the taxes they owe.
8. The IRS provides services correctly the first time.
9. The IRS gives prompt service.
10. The IRS maintains the highest standards of integrity. (honesty, decency, doing the right thing)
11. The IRS fairly applies the tax laws.
12. The IRS conducts business during hours that are convenient to most people.
13. The IRS conducts business in the best interest of people within the limits of the tax law.
14. The IRS tries to minimize the burden on people while carrying out the requirements of the tax law.
15. The IRS demonstrates a sincere interest in solving people's tax problems.
16. The IRS has employees who are willing to help people.
17. The IRS has employees who are available to respond to people's requests.
18. The IRS has employees who have the knowledge to deal with people's tax problems.
19. The IRS has employees who are consistently courteous.
20. The IRS has employees who listen to and understand the individual needs of people.
21. The IRS keeps people's and companies' tax return information confidential.
22. Because of efforts by the IRS, most people and business obey the tax laws.
23. Most people and businesses obey the tax laws.
24. The IRS provides letters and notices that are understandable.
25. The IRS is able to give people and business information about their own tax account when asked.
26. The IRS will find out if people and businesses do not pay the taxes they owe.

Now, I would like to ask your opinion about burden.

27. The IRS defines burden to be the time, expense, and dissatisfaction that people experience to obey the tax laws. Again, on the scale from 1 to 10, please give me your opinion of this statement:

The amount of burden people experience to obey the tax law is reasonable.

Section 2: Demographics/Value Tracking

To conclude this survey, I would like to ask you some questions about your background and your experiences with the IRS. These questions will be used to compare your responses to those of the other participants in this survey. As with the other information you have provided, your answers will be kept strictly confidential.

1. What type of tax form did you use to file your tax return this year?

_____ Form 1040, the long form (includes itemized deductions)
_____ Form 1040A, the short form (does not include itemized deductions)
_____ Form 1040EZ, the shortest form
_____ Did not file a return
_____ Don't know
_____ Refused

If a Return was Filed:

1a. Did you complete the form yourself or did someone else fill it out for you?

_____ Completed it myself
_____ Spouse completed it for me
_____ Someone else filled out for me
_____ Don't know
_____ Refused

If Someone Else Filled it Out:

1b. Who filled out your return for you?

_____ Paid preparer (CPA, Tax Attorney, Return Prep. Service)
_____ Other (Relative, friend, neighbor)
_____ Don't Know
_____ Refused

2. Other than paying your taxes, what is the most burdensome aspect of filing your tax return?

_____ Gathering records
_____ Filling out tax forms
_____ Time
_____ Finding/Paying a tax preparer
_____ Estimating taxes
_____ Itemizing deductions
_____ Understanding tax laws
_____ Dissatisfaction with tax laws
_____ Waiting for the refund
_____ Waiting for W–2
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused
_____ No Comment

3. Did you contact the IRS by telephone within the past year to ask a tax question or for information?

_____ Yes
_____ No [Skip to Q4]
_____ Don't Know [Skip to Q4]
_____ Refused [Skip to Q4]

3a. Why did you contact the IRS?

_____ Problem with account
_____ For information about filing out tax return
_____ To order additional schedules, forms, or publications
_____ Ask about refund check
_____ For work or business
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused

4. Did you visit an IRS office within the past year?

_____ Yes
_____ No
_____ Don't Know
_____ Refused

5. If you had to contact the IRS for any reason, which method of contact would you prefer? [Read]

_____ Telephone
_____ Written Correspondence
_____ Face-to-face
_____ Other (Specify)

_____

_____ Don't Know [Skip to Q6]
_____ Refused [Skip to Q6]

5a. Why do you prefer this method?
[Check All That Apply—Encourage More Than One Response]

_____ Personal contact
_____ Faster, quick resolution
_____ More responsive
_____ More accessible
_____ More accurate
_____ Makes IRS more accountable
_____ Provides a paper trail
_____ Provides confirmation that issue is resolved
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused

6. Are there any situations you can imagine where you might hesitate to contact the IRS at all?
[Check All That Apply—Encourage More Than One Response]

_____ Owe money
_____ Complicated tax matter
_____ If the IRS says I made mistake
_____ If I missed a filing period
_____ If I know I made mistake on a previously filed return
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused

7. I would now like you to think about everything the IRS does or should do. As the country's tax collection agency, what do you think are the most important things that the IRS should do?
[Do Not Read]
[Check All That Apply—Encourage More Than One Response]

_____ Send quick refunds
_____ Send tax packages in the mail
_____ Provide easy access to tax forms and instructions
_____ Provide competent taxpayer assistance
_____ Respond to complaints
_____ Hold convenient hours
_____ Enforce the tax laws (catch cheaters, ensure fair share paid by all)
_____ Provide easy to use tax forms and instructions
_____ Treat taxpayers fairly
_____ Change the tax laws
_____ Provide information on services and educate the public
_____ Be more lenient and understanding
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused
_____ No Comment

8. Do you have any further comments or suggestions that you would like to make to the IRS about how it could improve its services or products for you?
[Do Not Read]
[Check All That Apply—Encourage More Than One Response]

_____ Less complicated tax forms
_____ Provide more information regarding services
_____ IRS should improve enforcement
_____ IRS should be more lenient
_____ Dissatisfaction with tax laws
_____ Better taxpayer assistance
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused
_____ No comment

9. When you answered our questions, were your opinions about the IRS *primarily* a result of your personal dealings or experience with the IRS or from information you obtained from others; including friends, relatives, and the news media?
[Encourage Only One Answer. Check Only One Answer]

_____ Personal dealings or experience
_____ Information from others [Skip to Q11]
_____ BOTH (Volunteered)
_____ Don't Know [Skip to Q13]
_____ Refused [Skip to Q13]

10. What type of personal contact or experience did you have with the IRS that may have influenced your opinion?
[Do Not Read: Check All That Apply]
[Do Not Encourage Only One Answer]

_____ Called to get additional tax forms or instructions
_____ Tax return was audited
_____ The IRS claimed I owed additional taxes (money)
_____ I received a notice from the IRS
_____ I received a tax refund check
_____ I contacted the IRS through written correspondence
_____ I filed a tax return
_____ I had contact through work
_____ I visited an IRS office
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused
_____ No personal contact

11. Did this information or personal experience occur within the past six months?

_____ Yes [If Yes and "Personal Dealings or Experience" on Q9 Then Skip to Q13]
_____ No
_____ Don't Know [Skip to Q13]
_____ Refused [Skip to Q13]

12. What information influenced your opinions?

_____ Through other people
_____ Through the media
_____ Other (Specify)

_____

_____ Don't Know
_____ Refused

13. On a scale from 1 to 10, where 1 means not at all familiar and 10 means extremely familiar, how familiar would you say you are with the IRS and the services it provides to people.

_____ Don't Know
_____ Refused

14. What is your age?

_____ Years
_____ Don't Know
_____ Refused

15. What is the highest grade of formal schooling that you have ever completed? [Check one]

_____ 8th grade or less
_____ 9th, 10th, or 11th grade
_____ High school diploma/graduate
_____ Some college
_____ College degree
_____ Postgraduate studies/degree
_____ Don't Know
_____ Refused

16. Which of the following categories describes your annual household income last year?

_____ Under $25,000
_____ $25,000 to $49,999
_____ $50,000 to $99,999
_____ $100,000 or more
_____ Don't Know
_____ Refused

17. Are there any additional residential telephone numbers in addition to (Put Number Dialed Here) in your home?

_____ Yes—How many?_____
_____ No
_____ Don't Know
_____ Refused

18. Record gender of respondent by Observation.

_____ Male
_____ Female

Paperwork Notification Reduction Act

This concludes our survey, if you would like to make any comments about the length or content of this survey, I can give you the addresses to which you may send your comments.
(CATI: Put Address on Screen)
(Read Only if Respondent Asks For Address)

You may send your comments to:
Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Survey Number 1545–, Washington, DC 20224.

and

Office of Management and Budget, Paper Reduction Project, Survey Number 1545–, Washington, DC 20503.

On behalf of the IRS and _____, thank you very much for your time and cooperation. Your input is greatly appreciated.

[FR Doc. 93–6328 Filed 3–18–93; 8:45 am]
BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

March 15, 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: 1545–0906.
Form Number: IRS Form 8362.
Type of Review: Revision.
Title: Currency Transaction Report by Casinos.
Description: Casinos have to report currency transactions of more than $10,000 within 15 days of the transaction. A casino is defined as one licensed by a State or local government having gross annual gaming revenue in excess of $1,000,000.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 200.
Estimated Burden Hours Per Respondent: 43 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 21,670 hours.
OMB Number: 1545–1181.
Form Number: IRS Form 8752.
Type of Review: Revision.
Title: Required Payment or Refund Under Section 7519.
Description: This form is used to verify that partnerships and S corporations that have made a code § 444 election have correctly reported the payment required under code § 7519.
Respondents: Farms, Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 72,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hours, 16 minutes.
Learning about the law or the form—1 hour, 5 minutes.
Preparing, copying, assembling, and sending the form to the IRS—1 hour, 13 minutes.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 545,040 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. 93–6396 Filed 3–18–93; 8:45 am]
BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy; Meeting

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: The U.S. Advisory Commission on Public Diplomacy will release its 1993 report "Diplomacy in the Information Age" on March 18 at 10:30 a.m.—11:30 a.m. at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, NW. (Salon D, ballroom level).

FOR FURTHER INFORMATION CONTACT: Please call Gloria Kalamets, (202) 619–4468, if you are interested in attending.

Dated: March 15, 1993.

Rose Royal,
Management Analyst, Federal Register Liaison.
[FR Doc. 93–6335 Filed 3–18–93; 8:45 am]
BILLING CODE 8230–01–M

PRESIDENT'S TASK FORCE ON NATIONAL HEALTH CARE REFORM

Meeting

At a location and time to be announced in the **Federal Register**, the President's Task Force on National Health Care Reform will hold a public hearing on Monday, March 29, 1993, at which testimony on health care reform will be solicited from consumer groups, insurers, health care providers, small and large business interests, labor, and other interested parties. Advance notice of less than 15 days is provided because of the extraordinary circumstances of the short time-frame within which the Task Force has been asked to report its recommendations to the President.

Dated: March 18, 1993.

Michael Lux,
Special Assistant to the President for Public Liaison.
[FR Doc. 93–6633 Filed 3–18–93; 3:01 pm]
BILLING CODE 3195–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 52
Friday, March 19, 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

TIME AND DATE: 11:00 a.m., Friday, April 2, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6463 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 9, 1993.

PLACE: 2033 K St., N.W., Washington, D.C., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6464 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 16, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6465 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:00 a.m., Friday, April 23, 1993.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6466 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, April 30, 1993.

PLACE: 2033 K St., NW., Washington, DC., 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–6467 Filed 3–17–93; 11:03 am]

BILLING CODE 6351–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is heeby given that at 3:05 p.m. on Tuesday, March 16, 1993, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Resolution honoring the late C. C. Hope, Jr.

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters relating to the Corporation's corporate activities.

Matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Director Stephen R. Steinbrink (Acting Comptroller of the Currency), seconded by Director Jonathan L. Fiechter (Acting Director, Office of Thrift Supervision), concurred in by Acting Chairman Andrew C. Hove, Jr., that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, D.C.

Dated: March 17, 1993.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 93–6480 Filed 3–17–93; 11:51 am]

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, March 25, 1993.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21stStreets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 17, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–6520 Filed 3–17–93; 2:14 pm]

BILLIG CODE 6210–01–M

federal register

Friday
March 19, 1993

Part II

United States Information Agency

22 CFR Part 514
Exchange Visitor Program; Final Rule

UNITED STATES INFORMATION AGENCY

22 CFR Part 514

[Rulemaking No. 101]

Exchange Visitor Program

AGENCY: United States Information Agency.

ACTION: Notice of final rulemaking.

SUMMARY: By this notice the Agency is publishing final regulations governing its administration of the Exchange Visitor Program. The Agency has undertaken a thorough review of the Program, its enabling legislation, and past history. This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The complete revision to 22 CFR part 514 set forth in detail below is being made in an effort to define more clearly the obligations, duties and relationships of the Agency, sponsors, and exchange participants.

EFFECTIVE DATE: With the exception of § 514.14 (Insurance), and § 514.15 (annual reports) part 514 shall take effect March 19, 1993. Sections 514.14 and 514.15 shall take effect on September 1, 1994.

FOR FURTHER INFORMATION CONTACT: Stanley S. Colvin, Assistant General Counsel, United States Information Agency, 301 4th Street SW., Washington, DC 20547; telephone, (202) 619–6829.

SUPPLEMENTARY INFORMATION: The Director of the United States Information Agency ("Agency") is authorized to facilitate and direct educational and cultural exchange activities in order to develop and promote mutual understanding between the people of the United States and other countries of the world. Now governed by the provisions of the Mutual Educational and Cultural Exchange Act of 1961 ("Fulbright-Hays Act"), educational and cultural exchange is the cornerstone of United States public diplomacy, an integral component of foreign policy.

First begun pursuant to the provisions of the United States Information and Educational Exchange Act of 1948 ("Smith-Mundt"), and subsequently incorporated into and broadened under the Fulbright-Hays Act, educational and cultural exchange activities have, over the past forty years, exposed millions of foreign nationals to the United States, its peoples, cultures, skills, business techniques, educational institutions, and way of life. The Fulbright-Hays Act mandates reciprocal exchange and Americans traveling abroad have, in similar fashion, developed an enhanced awareness of foreign people, their cultures and societies. Originally performed by the Department of State, oversight of exchange activities, occurring under the umbrella of the Exchange Visitor Program, has been the responsibility of the Agency since 1978.

The Fulbright-Hays Act prescribed categories of eligible exchange participants. The Act provides for the exchange of students, scholars, trainees, teachers, professors, researchers, specialists, leaders in a specialized field of knowledge or skill, or other person of similar description. In addition, the Act requires that exchanges participate in *bona fide* teaching, study, instruction, lecturing, observation, consultation, research, training or demonstration of special skill activities. Further, the Act authorizes non-immigrant aliens falling within the statutory parameters of the Act to enter the United States under the aegis of a J visa for the purpose of participation in an exchange visitor program. Necessarily, Agency determination of the appropriate usage of the J visa is an integral element of this rulemaking.

The Exchange Visitor Program is facilitated—indeed, largely conducted—by Agency-designated program sponsors who are responsible for the recruitment, placement, and supervision of exchange participants. Congress clearly intended that the private sector was to have a major role in educational and cultural exchange activities. Indeed, when Congress assigned the Agency its mission in 1978, it reemphasized, amongst other things, that the Agency was to "encourage private institutions in the United States to develop their own exchange activities, and provide assistance for those exchange activities which are in the broadest national interests." 22 U.S.C. 1461–1 (1988). Pursuant to this Congressional mandate, utilization of private sector expertise and resources has resulted in the designation of over 5,000 exchange visitor programs during the past forty years. Currently, in excess of twelve hundred program sponsors are conducting exchange activities. In 1990, these Agency-designated sponsors facilitate the entry into the United States of more than 180,000 Exchange Visitor Program participants. Though widely hailed as an innovative and successful foreign policy initiative, the Exchange Visitor Program is not without flaw. Debate concerning the parameters of program participation and activity has arisen in recent years. In response to this debate, the Agency has undertaken a through review of the Program, its enabling legislation, and past history. This review has, in turn, directed the Agency upon a course of regulatory and management practice reform. The amendments to 22 CFR part 514 set forth in detail below are proposed in an effort to define more clearly the obligations, duties, and relationships of the Agency, sponsors, and exchange participants.

Acting in response to Congressional request, the General Accounting Office ("GAO") investigated Agency oversight and administration of the Exchange Visitor Program and its attendant utilization of the J visa. In its report to Congress, dated February 5, 1990 and entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," the GAO determined that certain Exchange Visitor Program activities appeared to be inconsistent with the statutory grant of authority and its underlying legislative intent. GAO summarized its findings, stating:

> Most J-visa activities appear to conform to the intent of the 1961 act. However, GAO believes that certain activities and programs in the trainee and the international visitor categories, including the summer student/travel work, international camp counselor, and au pair (child care) programs, are inconsistent with legislative intent. GAO identified instances of participants working as waiters, cooks, child care providers, amusement and leisure park workers, and summer camp counselors. Authorizing J visas for participants and activities that are not clearly for educational and cultural purposes as specified in the act dilute the integrity of the J visa and obscures the distinction between the J visa and other visas granted for work purposes.
> Report, p. 3.

In turn, Agency responses to this criticism began with a thorough review of enabling legislation authorizing the Exchange Visitor Program and admission into the United States of foreign nationals on a J visa.

The Agency has sought and greatly benefited from the views and opinions of the exchange community. A prior proposed rulemaking, published November 25, 1991, was abandoned in light of substantial negative comment. An open door policy has been in place during this entire Rulemaking process and all interested parties have been afforded the opportunity to be heard. The National Association for Foreign Student Affairs and the International Exchange Association have been instrumental in suggesting regulatory changes which will shape the scope and velocity of future exchanges. The American Immigration Lawyers Association also contributed significantly to the review and revision of these regulations. A total of 236

comments were received in response to the Proposed Rulemaking published October 9, 1992. The views and comments reflected in these comments as well as the testimony offered at three public hearings conducted over the past year are incorporated in this Final Rule. Given the diversity of interests represented under the umbrella of the Exchange Visitor Program, the Agency has often had to reconcile competing or conflicting interests. Accordingly, although all comments received were well reasoned, program and policy considerations have dictated the adoption of some suggestions but not others.

Subpart A: General Provisions

Exchange Participants and Activities

The Agency has determined that it may best prevent future confusion regarding participant eligibility by establishing eligibility criteria. To this end, the Agency adopts such criteria set forth at § 514.4 as proposed. New categories of participation, those of "short-term scholar" and "government visitor" are introduced and participation as a "student" is more clearly defined. The category of "specialist" has been expanded and that of "international visitor" restricted to Agency use. Further, the Agency has determined that camp counselor programs—subject to certain modifications provided for in these regulations—do in fact fall within the Agency's statutory authority to promote exchange. Seventeen comments regarding categories of participation were received, all generally advocating inclusion of summer work/travel programs or suggesting minor modifications to camp counselor or international visitors programs.

The Agency has determined that the academic exchange community could readily increase the velocity of academic related exchanges through the development of "short-term scholar" exchanges. A new category of participation, such exchanges will be limited to four months duration. In similar fashion, the Agency believes exchanges within the business community could be substantially increased through the use of the "specialist" category of participant. This category allows for experts in a field of specialized knowledge or skill to engage in observation, consultation, or demonstration of special skill for a period of time not to exceed one year.

To correct confusion which periodically arises from the sponsorship of student participants, the Agency adopts criteria governing student status. Given the *bona fide* requirement set forth in 8 U.S.C. 1101(a)(15)(J), the Agency believes that a student participant must pursue a full course of study. In light of comments received, the Agency is persuaded that academic institutions should be left to determine what constitutes a full course of study at their institution. Provisions are also made to allow for non-degree students and individuals pursuing English language training.

Also set forth in § 514.4 as subparts of the "other persons of similar description" participant category are "International Visitor" and "Government Visitor." Originally intended only for Agency use, the International Visitor category has devolved to "catch-all" usage over the years. As proposed, reservation of this category only for Agency use will allow definitive and statistical illustration of the nature and scope of exchanges occurring under direct Agency sponsorship. Similar in nature to International Visitor, the proposed Government Visitor category will be utilized for exchanges directly sponsored by local, state, or federal government agencies. Many comments suggested that the international visitor category should also include participants sponsored by the private sector. Given the ability of sponsors to conduct exchanges similar to international visitor exchanges under other categories of participation the Agency elects to reserve this category to its exclusive use.

The GAO report discussed supra, concluded that camp counselor programs are inconsistent with the legislative intent of the Fulbright-Hays Act. The Agency, having reviewed this matter in great detail, is now of the opinion that camp counselor programs may be continued. This conclusion is based upon policy and legislative analysis and will require certain programmatic reforms.

International camp counselor is not a statutorily enumerated category of exchange participation. If, however, camp counselor exchange participants are students, teachers, *bona fide* youth workers, and persons with specialized skills in their home country they will fall squarely within the statutorily authorized category of "other person of similar description." As regards activities while in the United States, camp counselors are actively engaged in teaching, observation, and instruction activities, all of which are activities specifically authorized by the statute.

Given the directive of broad interpretation found in the legislative history of the Fulbright-Hays Act, Agency designation of these programs is clearly consistent with the statutorily enumerated purpose and objective of the legislation. To avoid confusion as to the categorization of camp counselor program participants, a new category, set forth at § 514.4 as a subpart of "other persons of similar description," is adopted.

Program Designations

Agency examination of its administration of the Exchange Visitor Program has resulted in a determination that certain internal program controls should be bolstered. In part, the Agency has determined that sponsor application and designation procedures should be strengthened and more clearly delineated. To this end, the Agency proposed and now adopts, pursuant to provisions set forth at § 514.5 and § 514.6, modification of existing application and designation procedures and the addition of a new requirement dictating periodic redesignation.

Recognizing that many exchange programs exhibit a life cycle of establishment, maturation, and demise the Agency adopts proposed regulations governing periodic designations. The Agency proposes to designate program sponsors for five years and require sponsors desiring to continue program operations to advise the Agency affirmatively of such intent pursuant to request for redesignation as set forth in § 514.7, infra. Such periodic designations will allow the Agency to track program life cycles, efficiently cancel inactive programs, and most importantly, monitor the activity within and direction of designated exchange programs. Programs for which designation is not sought will be canceled through administrative action.

Fifty-six comments were received regarding this new requirement all suggesting that the requirement not be adopted or that notice to the Agency regarding a sponsor's desire for continuation of its designation should be accomplished through an appropriate check-off on the annual report. Having examined this suggestion the Agency modifies its proposed language to adopt this suggestion. The Agency contemplates a two-year phase-in of this requirement during which all existing designations will be reviewed and extended, if appropriate.

Program Administration

In addition to delineating sponsor and participant eligibility criteria, the Agency proposed that all exchange programs designated by the Agency meet certain eligibility requirements. As set forth at § 514.8, the Agency has

determined, as in the past, that all programs should have not less than five exchange participants annually. In response to forty-nine comments on this matter the Agency has modified the minimum program size to allow for Agency waiver of this requirement upon a showing of good cause.

Further, with the exception of programs for the newly defined "short-term scholar" and "government visitor" participants, all programs must provide for cross-cultural activities and afford all participants an exchange program in the United States of not less than three weeks. These long-standing requirements are currently set forth in existing regulations, but have, along with a requirement for reciprocity, been reordered and will henceforth be prerequisites to program designation.

The Agency will require sponsors to be both United States citizens as such term is defined in this Part and to affirmatively demonstrate an ability to comply, and remain in continual compliance, with all regulatory provisions. As regards exchange visitors, the Agency has defined the statutorily enumerated categories of eligible participation in terms of the activity inherent to each categorical status. Thus, by way of illustration, the Agency has determined that an eligible "student" exchange participant is one entering the United States for the purpose of pursuing a full course of study at an accredited educational institution. This approach will ensure that exchanges occurring under the aegis of the Exchange Visitor Program fall squarely within the established statutory parameters of status and activity. As participation in the Exchange Visitor Program is thus limited, strict adherence and compliance with Agency promulgated definitions of status will be expected.

A statement addressing the Agency's long-standing reciprocal exchange policy is set forth in § 514.8. Such policy contemplates that exchange sponsors will make a good faith effort to facilitate reciprocal exchange of persons to the fullest possible extent. Statutorily mandated, reciprocity is inherent in the concept of mutual exchange of persons. Confusion over the nature and scope of reciprocity has been problematic for some time. As a policy consideration, the Agency seeks to promote and foster innovative and expansive responses to this critical program requirement. Although one-for-one exchange is the ultimate objective of the foreign policy underlying passage of the Act, the Agency recognizes that circumstances may permit no, or only limited, reciprocal exchange opportunities.

Related to reciprocity is the requirement that exchange visitors be exposed to various activities designed to promote cross-cultural awareness. Sponsors will be required to offer a reasonable amount of cross-cultural activities, including sports, cultural, and social activities for the purpose of enhancing the participant's knowledge and understanding of American mores, customs, and ways of life.

Agency scrutiny of existing regulations governing the Exchange Visitor Program has revealed a lack of specificity and clarity regarding sponsor obligations and program administration. Although the Agency is secure in its belief that sponsors act in the best interests of sponsored exchange participants, the existing regulations do little to ensure uniform program administration and oversight of exchange visitors. To correct this deficiency, the Agency proposed amendment to existing regulations. In an effort to provide some measure of uniformity in the conduct of exchange activities such amendments are hereby adopted.

Recognizing that exchange visitors are dependent upon the sponsors who facilitate their entry into the United States, the Agency will require that such sponsors demonstrate, to Agency satisfaction, their organizational and financial ability to fulfill their duties and obligations as exchange sponsors. Pursuant to regulation set forth at § 514.9, non-government sponsors must affirmatively establish both their ability to pay timely all financial obligations and that sufficient funds are readily available to fulfill all obligations and responsibilities attendant to exchange sponsorship.

The Agency is obligated to introduce this requirement due to evidence of financial instability among certain Agency-designated sponsors. As a matter of administrative convenience, the Agency deems it appropriate to consider public colleges and universities as government sponsors, for the purposes of this provision only, and thereby exempts them from compliance. In addition to furnishing evidence of fiscal integrity, sponsors must also comply with additional obligations pertaining to internal organizational operations.

The regulation set forth at § 514.9 also requires that sponsors adhere to Agency-promulgated regulations governing the Exchange Visitor Program. This regulation is advanced, in part, to ensure that officers, employees, and agents involved in sponsor facilitation of exchange activities are aware of the Program, its intent, and regulatory requirements. This regulation will require employees, officers, and agents responsible for program administration to be adequately trained and qualified to perform assigned duties relating to exchange activities. Underlying this requirement is an Agency concern that responsibility for both exchange visitors and program administration be vested in persons who have knowingly undertaken such responsibility.

The Agency also adopts, pursuant to regulations set forth at § 514.10, requirements governing the selection and orientation of exchange participants. The Agency will require that sponsors ensure that prospective exchange participants meet the eligibility criteria for program participation and that such program is suitable to the participant's background, needs, and experience. Upon selection for participation and prior to commencement of the program, sponsors will be required to provide the participant with information regarding the exchange program, travel, housing, and cost. The sponsor must also inform all exchange visitors of the two-year home residency requirement which may apply to the exchange visitor due to government funding or area of study.

Upon the exchange participant's arrival, or as soon as practical thereafter, the sponsor must provide sufficient orientation to acquaint the exchange visitor with United States customs and monitor the visitor's stay in the United States. This requirement is adopted in an effort to both facilitate the exchange visitor's adjustment to life in the United States and enhance the positive impression of the United States which is the underlying purpose of all exchange activity. Although the Agency has determined that orientation for accompanying dependents is highly desirable, a mandatory requirement that such orientation be conducted is not imposed. The Agency strongly encourages sponsors to provide dependent orientation.

Section 514.14 Insurance

The Agency has reviewed the health and accident insurance coverage afforded Program participants. The need for such coverage is self-evident. Given the escalating costs of U.S. health care, the current levels of coverage, in place since 1983, are now woefully inadequate. As set forth in § 514.14, the Agency proposed to increase the level of coverage to $50,000 per accident or illness. The Agency also proposed that exchange visitors obtain coverage for repatriation of remains in the amount of $7,500 and coverage for medical

evacuation to their home country in the amount of $10,000. A waiting period for pre-existing conditions, reasonable as determined by industry standards, and a deductible not in excess of $500 per accident or illness will be permitted. Provision is made for co-insurance. Policies may not exclude from coverage perils or dangers inherent to the exchange activity. For example, an insurance policy secured to cover flight training participants may not exclude injury arising from operation of small aircraft. In an effort to ensure the quality of the provided coverage, the Agency proposed that only insurance corporations having certain ratings by recognized insurance company rating services would be acceptable to underwrite the insurance for exchange visitors.

This regulation, as adopted, provides for self-insurance by federal, state or local governments, state colleges and universities, and public community colleges. A non-governmental sponsor may elect to self-insure or to accept full financial responsibility for the above requirements, but could do so only with the Agency's permission.

Current regulations do not require that an accompanying spouse or dependent of an exchange visitor be covered by insurance. These regulations cure this programmatic flaw by requiring accompanying dependents entering the United States on a J visa to be covered under an insurance policy. An exchange visitor's failure to secure insurance coverage for his or her self and J–2 accompanying dependents would obligate their program termination. Sponsors would also be prepared to provide exchange visitors with information on the availability of such coverage.

The proposed insurance regulation generated 144 comment letters, each of which has been carefully reviewed. In addition, during the course of the regulatory reform, the Agency held a number of meetings and telephone conferences with the exchange community and representatives of the insurance industry specifically to discuss the proposal.

At none of these meetings and in none of the comment letters was there any disagreement about the need for insurance on exchange visitors or that the levels of coverage required under current regulations were inadequate. However, there has been considerable discussion about the practical application of the proposed regulation and about the role of sponsors in making sure that the requirements are met.

At the outset, it is noted that a number of comment letters reflect a misunderstanding on the part of sponsors about their obligations under the insurance regulation. Sponsors are not themselves required to provide or pay for the required coverages on exchange visitors or on their accompanying spouse or dependents, although the sponsor may choose to do so. Those obligations reside in the exchange visitor. The sponsor's obligations under the insurance provisions set forth in § 514.14 are limited to informing exchange visitors that they and their accompanying spouse and dependents are required to be covered by insurance and, in what the Agency expects will be isolated instances where the exchange visitor willfully fails to remain in compliance with the insurance requirements, terminate the participation of the exchange visitor in the sponsor's program.

A number of commenters expressed particular concern about the latter obligation on the grounds that it converts what has traditionally been a counselling and advising function into a police or informing function, which would seriously erode the exchange visitor's trust and confidence in the sponsor or responsible officer. Nevertheless, the Agency believes that if the insurance requirements are not coupled with an enforcement provision, they may well be ignored by the exchange visitor.

However, in order to lessen this perceived burden on sponsors, the Agency has added the word "willfully" to § 514.14(i), so that sponsors are required to sanction only the most egregious cases where the exchange visitor willfully fails to remain in compliance with the insurance requirements. In cases where through mere inadvertence or neglect an exchange visitor fails to obtain the required coverage or allows the coverage to lapse, the sponsor can counsel and work with the exchange visitor to bring him or her into compliance. Early counselling by the sponsor, which impresses upon the exchange visitor the importance and necessity of having the required coverage, will help avoid problems. The Agency is fully cognizant that on occasion there will be instances where an exchange visitor or an accompanying spouse or dependent fails to obtain or maintain the required coverages. For example, the Agency is aware that there are instances where the sponsor does not even know that the exchange visitor is accompanied by a spouse or dependents because the spouse or dependents came to the U.S. on some visa other than the J visa or because the consular official, unbeknownst to the sponsor, issued a separate IAP–66 and visa for such spouse or dependent. In such instances, the sponsor clearly has not failed to meet its obligations. It need take action only when it becomes aware that the exchange visitor is willfully violating the regulation.

A number of comments expressed concern over the requirement that there must be insurance in effect which covers the exchange visitor "during the period of time that an exchange visitor participates in the sponsor's exchange visitor program" (§ 514.14(a).) The Agency recognizes that certain practical difficulties may arise under that provision. For example, an exchange visitor college or university student may come to the U.S. with no insurance coverage and will only be able to participate in the school's insurance plan when he or she enrolls and pays the required premium. Similarly, when the exchange visitor completes his or her course of studies, he or she may choose to leave the school but remain in the U.S. for a period of time to travel and sightsee. For purposes of the insurance regulation, the Agency considers the exchange visitor to be "participating" in the sponsor's exchange visitor program only during that period of time between actual enrollment and that point when the student departs the school upon completion of his or her studies. Similarly, in the case of those who come to the U.S. on Agency-designated training programs, the Agency considers the trainee to be "participating" in the sponsor's training program only during that period of time between when the trainee actually begins training and when the training is completed. In other words, the insurance regulation does not require "portal-to-portal" coverage, even though such coverage is highly desirable.

Several commenters expressed reservations about the Agency's reliance on independent insurance company rating services to ensure the quality of the underwriters providing the required coverage. However, because of staff limitations and, more importantly, because of the Agency's lack of expertise in this complex area, the Agency is not in a position to independently evaluate the claims-paying ability of insurance carriers and must, of necessity, rely on established and recognized rating services to perform such evaluations.

A number of commenters objected to the requirements for repatriation and medical evacuation insurance coverage

on exchange visitors, both on the grounds that such coverages are not readily available and/or on the grounds that the coverage limits are too high. However, the Agency has conferred with insurance industry officials and has concluded that such coverage is available and that the coverage limits are reasonable. In the event that, based on its past loss experience in this area, a sponsor concludes that the cost of such coverage outweighs the risk of loss, it may self-insure or assume financial responsibility for such coverage.

The Agency is also cognizant of the fact that many sponsors, particularly large educational institutions and corporate sponsors who choose to provide insurance coverage to program participants, require considerable lead time to solicit proposals for and implement insurance plans which meet the requirements of this section. For that reason, the Agency is postponing the effective date of the insurance provisions until September 1, 1994.

Finally, the Agency recognizes that, on occasion, there will be instances where the insurance coverage obtained by or made available to exchange visitors will differ from the required coverage in minute detail. For example, there may be a situation where the deductible in an insurance policy exceeds the $500 limit, but the sickness and accident coverage far exceeds $50,000 and meets all other Agency requirements. In such instances, the Agency is available to consult with the sponsor in an effort to reach a reasonable resolution of the issues.

Notification, Annual Reporting, and Control of Form IAP–66

Twenty-one comments were received regarding Agency notification requirements set forth at § 514.13. These requirements are adopted with minor modification reflecting comments received. Such requirements include notification to the Agency of material changes in a sponsor's organizational structure which affects the citizenship requirement set forth in § 514.2, and overall ownership and control. The Agency is obligated to introduce this requirement as many designated sponsoring organizations are small entities comprised of key personnel. Upon notification of a substantial change in ownership or control, the Agency will ascertain whether designation should continue based upon the experience and expertise of the new management. It must be noted that Agency designations are not transferable.

Efficient Agency oversight and administration also dictates that sponsors apprise the Agency of any changes in responsible officers, address, or telephone number. In similar fashion, loss of licensure or accreditation, change in financial circumstances or the voluntary termination of the exchange visitor program must be reported. The Agency has also determined that notification concerning a participant's early completion or withdrawal from the sponsor's exchange visitor program is necessary. Upon receipt of such notification the Agency will deem the sponsor's obligations to an exchange visitor to have ended. At the suggestion of the exchange community this requirement has been modified to require only the reporting of program termination or early withdrawal.

The Agency has determined that a substantial correction must be made to the current practice surrounding the care and custody of the Form IAP–66. Such forms are controlled U.S. Government documents and have been found to have a substantial black market value. The Agency has also discovered unauthorized utilization of the forms by program sponsors to facilitate the entry of foreign nationals for the purpose of participation in non-designated exchange activities. The Agency proposed to correct this abuse by institution of a strict accounting of all forms disbursed to sponsors. Twenty comments regarding these requirements were received with most suggesting that the Form IAP–66 should be treated in similar fashion to INS Form I–20. At this point in time the Form IAP–66 remains a controlled document and the Agency is obligated to adopt this regulation as proposed. To this end, the Agency will require, pursuant to the provisions of § 514.12 and § 514.13, that sponsors record and destroy damaged forms, track and record forms issued, and maintain all forms on hand in a secure fashion. An accounting for all forms will be made, in part, pursuant to an expanded annual reporting requirement.

Considerable debate has surrounded the Agency's proposal regarding annual reporting requirements. This debate is best evidenced by the Agency's receipt of ninety-three comments regarding the proposed annual reporting requirements. Further complicating the proposal of an annual reporting requirement is the misconception, particularly within the academic community, that annual reporting is a new requirement. Annual reporting of program activity and participant category is as old as the Exchange Visitor Program itself. In point of fact, the proposed report form is the same form that sponsors of long-designated programs routinely submitted to the Agency for years. Part of this confusion over the form and the reporting requirement may be traced to an oral statement allegedly made by an Agency official to the effect that annual reports need not be submitted. Without arguing the bona fide reliance a sponsor may have placed upon such an oral directive, it should be well noted that the regulatory requirement for submission of an annual report remained unchanged.

The Exchange Visitor Program is an anomaly in the U.S. immigration scheme and provides extraordinary latitude in the selection of exchange participants. As a program and an extension of U.S. foreign policy a degree of accountability is required. The burden of submitting an annual report which reflects a sponsor's activity for a year and which ensures an annual reconciliation of their usage of Forms IAP–66 is viewed by the Agency as a de minimis imposition upon designated sponsors. Although most if not all commenters agreed that an annual report regarding program activity was reasonable, many questioned the Agency's need to have the numerical counts of categorical participants. This objection was uniformly made by large academic institutions at which decentralized participant selection and responsibility for program participants is the rule and not the exception. The Agency has reviewed this matter at length and has determined that it cannot abandon the annual reporting requirement in order to accommodate the wishes of some twenty academic institutions.

Allegations that the annual report imposes an undue paperwork burden were also common. In response, the Agency points out that the form attached at appendix D has been in use for thirty years and approved by OMB. Further, one well informed commenter, a member of the NAFSA Government Relations Advisory Committee, submitted a sample annual report which had been prepared in thirty minutes. This sample was generally acceptable to the Agency and was lacking only in its listing of categorical participants. In this sample numerical counts of categorical participants were estimated rather than actual.

Although the Agency is at a loss to understand why a sponsor cannot currently account for the exact number of participants in its exchange visitor program, a review of the comments received indicate that such an account poses a problem for some sponsors. Given this problem, the annual report requirement should be phased-in to

allow for any required record keeping modifications. Accordingly, the Agency adopts the annual reporting requirement as proposed but delays implementation of the numerical count of categorical participants until the reporting year commencing with academic year 1995. All sponsors will be required to begin submission of annual reports reflecting program activities upon promulgation of this Rule and as directed by the Agency. Those sponsors that do know the number of participants in their programs should report this information. Sponsors who do not know the number of participants in their program will be expected to begin providing this information within two years.

Subpart B: Specific Program Provisions

Section 514.20 Professors and Research Scholars

Although professor, researcher, and scholar exchanges are the very heart of the Exchange Visitor Program, regulations which specifically govern these exchanges have never been promulgated. In an effort toward regulatory consistency and program integrity, the Agency herein sets forth regulations which specifically provide guidance regarding such exchanges.

The term "scholar," although set forth as a category of exchange in the Fulbright-Hays Act, has never before been defined in Exchange Visitor Program regulations or considered a distinct category of authorized exchange activity. This lapse is possibly due to the conceptual overlap of the term with "professor" and "researcher." The Agency is correcting the discrepancy by introducing the category of "short-term scholar."

The Agency received 61 comments on the proposed professor and research scholar regulations. The comments were thoroughly reviewed and subsequently a number of changes in the proposed regulations were made. The comments on the professor and research scholar regulations are mainly focused on the location of the exchange, type of positions permitted, occasional lectures and short-term consultations, duration of stay, and extensions.

In the proposed regulations, professors and research scholars are allowed to participate in their exchange program at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Comments were made that research scholars should be allowed to conduct research at corporate research centers. Upon deliberation, the Agency decided to explicitly list corporate research facilities as a location permitted in § 514.20.

In deciding whether to facilitate the exchange of a professor or research scholar, the sponsor shall consider the underlying purpose for which the individual is visiting the United States. It is appropriate for a professor or research scholar to come to the United States as an exchange visitor only when the underlying purpose of his or her entry is to stimulate international collaborative teaching and research efforts or to promote interchange between research and educational institutions in the United States and other countries. To this end, the Agency requires that appointments of professors and research scholars be temporary, even if the position itself is permanent. In addition, the individual shall not be a candidate for a tenure-track position.

Recognizing that the positions of professor and research scholar are intertwined, the Agency permits professors to freely conduct research and research scholars to teach or lecture, unless disallowed by the sponsor. The definition of professor and research scholar set forth in these regulations, rather than the position description utilized by the individual educational or research institution, is to be used by the sponsor in determining the category of exchange participation.

Prior to issuance of the Form IAP–66, the responsible officer must review the parameters of the individual exchange to assess whether research or lecturing will comprise the participant's primary activity. If the exchange participant will primarily be conducting research, he or she must be categorized as a research scholar on the Form IAP–66. If the exchange participant will primarily lecture, then he or she must be categorized as a professor.

The final regulations allow sponsors to authorize a change of category from professor to research scholar, or vice versa, when the principal activities of the participant so dictate. A significant number of comments express a concern about tracking when a professor or research scholars changes from professor to research scholar, or vice versa. In recognition of this difficulty, the final regulations require such a determination only when the professor or research scholar is obtaining a program extension. This is necessary in order to determine which category (professor or research scholar) to check off on the Form IAP–66.

Professors or research scholars may conduct their exchange activity at the location(s) listed on the Form IAP–66, which could be either at the site of the sponsor or of a third party facilitating the exchange. Pursuant to § 514.20(g), exchange visitors may also engage in activities at locations not listed on the Form IAP–66 if such activities constitute occasional lectures or short-term consultations which meet the requirements of § 514.20(g).

Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274.1(j) and the criteria and procedures set forth in § 514.20(g) must be satisfied. By way of illustration, a research scholar may conduct research at the universities listed on his or her Form IAP–66, and may also conduct short-term consultations as an independent contractor at any location when the § 514.20(g) requirements are met.

The Agency has received numerous requests to extend the permitted duration of participation for research scholars. A number of universities, research institutions and United States Government agencies have requested greater flexibility in arranging the duration of participation for the professors and research scholars. Several comments suggest that a general limitation of stay be expanded from three to five years because a significant number of research scholars are involved in projects for five years.

In examining this issue, the Agency has determined that greater flexibility in the permitted period of participation is desirable. The Agency has adopted the general limitation of stay of three years, with a possible extension up to an additional three years. The first six-month extension may be granted by the responsible officer. Additional extension may be granted by the Agency. In addition, the Agency is changing the standard of review for extensions for professors and research scholars from "unusual or exceptional" to "for good cause." These changes were made to respond to needs of the universities and research institutions, especially in regards to international research projects and a variety of scientific research projects.

A number of comments express concern about when sponsors can request an extension. Some say it is important to be able to request an extension at the beginning of the exchange visitor program, not at the end

of the third year. Under the final regulations, the Agency permits requests for extensions to be filed any time, but recommends that they filed not later than 45 days before the program's expiration date.

The Agency will entertain sponsors' requests to extend the permitted period of participation for a group of research scholars engaged in specific fields of endeavor on a blanket petition basis. The Agency believes that such blanket approvals will provide both desired flexibility and enhanced administrative efficiency.

Several comments suggest that the Agency clarify the status of professors and research scholars when extensions for exchange visitors are requested to the Agency. Some of the comments recommend specific language. First, the comments recommend that the regulations state that exchange visitors who apply for an extension pursuant to § 514.20(j)(2) are considered to be in valid program status during pendency of the application. The Agency adopts this language in the final regulations. Second, the comments recommend that the regulations state that an exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives Agency notice that the request has been denied, is considered to be maintaining lawful program status for an additional period of 30 days from the date of such notice, during which time the visitor is expected to depart the country, or for a period of 30 days from the expiration of the visitor's Form IAP–66, whichever is later. The Agency adopts such language with only minor modification to enhance clarity.

Section 514.21 Short-term Scholars

The Agency received 12 comments on the proposed short-term scholar regulations. The comments were thoroughly reviewed and many of them supported the addition of this category to the regulations.

The Agency created the category of "short-term scholar," which is defined as a professor, research scholar, specialist, or a person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. Educators, scientists, research fellows, writers, museum administrators, librarians, and similar persons of recognized expertise are examples of participants appropriate for this category.

The goal of short-term scholar exchanges is to increase the velocity of the interchange of knowledge and skills and collaborative research efforts between foreign and American scholars. This may be accomplished by providing foreign scholars the opportunity to share ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and thereby promote improved professional relationships and communications.

Because these exchanges are of limited duration and the participants are often senior in their field, the Agency has determined that it will not be necessary for sponsors to provide orientation or cross-cultural activities for short-term scholars. However, the Agency does encourage sponsors to provide such activities to short-term scholars to the extent appropriate.

The final regulations exempt short-term scholars from the minimum duration of participation as set forth at § 514.8(b), but limit the maximum duration of participation to four months. As this category is intended only as a vehicle for short-term collaboration and interchange, these participants will not be eligible for a program extension.

A number of the comments suggest that the Agency clarify whether short-term visitors would be able to change categories. In the final regulations, a short-term scholar may be considered by the Agency for a change of category when the requirements set forth in § 514.41 are satisfied. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and be justified by unusual or exceptional circumstances. A change of category must be approved by the Agency.

Section 514.22 Training

The Agency received 79 comments on the proposed training regulations. The comments principally addressed the following subsections: § 514.22(c)(2) (Categories of Specialty and Non-specialty occupations), § 514.22(e) (Use of Third Parties), § 514.22(g) (The Training Plan), § 514.22(m) (Evaluation), and appendix E to part 514 (List of Unskilled Occupations.) All comments have been carefully reviewed and the Agency has made a number of revisions to the proposed regulations, as will be discussed below.

Background

Following the passage of the Smith-Mundt Act in 1948, the Department of State, the Agency's predecessor in implementing exchange programs, promulgated regulations governing educational and cultural exchanges. Among other things, these regulations recited various categories of aliens allowed to participate in exchange visitor programs pursuant to the statutory language of the Act. Among those categories was "trainee," defined as an alien seeking to enter the United States temporarily in order to participate in an exchange visitor program "for the purpose of obtaining practical training in public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill * * *". 22 CFR part 68 (1949).

In 1961, Congress enacted the Fulbright-Hays Act, again directing the inclusion of training as a category of exchange participation. Although an integral part of Agency-administered exchanges, it was not until 1983 that separate regulations governing training activities utilizing the J-visa were promulgated. 22 CFR 514.13(c) (1983). These regulations have not been amended or revised since first promulgated.

In response to the General Accounting Office (GAO) investigation noted above, the Agency has reviewed the legislation and legislative history underlying the Exchange Visitor Program and existing regulations to determine whether such regulations comport with the statute governing this program. As discussed below, the Agency is amending existing regulations in such a manner that the criticisms raised by the GAO are addressed and distinctions between training and work are obvious and clearly drawn.

In Rulemaking 100 of the Agency proposed regulations which addressed the criticisms of the GAO and attempted to distinguish clearly between training and work that is not training. Thus, the Agency proposed that all training conducted under the aegis of the Acts be clearly defined and structured, and on a level appropriate to the trainee's background and experience.

The GAO Report

The controversy over the legitimacy of certain activities of foreign nationals in the United States on exchange visitor visas sparked Congressional concern as to the propriety of certain educational and cultural exchange programs administered by the Agency. A GAO investigation and report followed.

The report by GAO, entitled "Inappropriate Uses of Educational and Cultural Exchange Visas," and dated February 16, 1990, (GAO Report) concluded that:

A number of J-visa activities in the practical training and international visitor

categories, including summer student travel/work, camp counselor, and au pair activities—some of which have been ongoing for years—do not conform to the original legislative intent concerning educational and cultural exchanges. GAO Report at 23.

While the words "trainee" and "receiving training" are not expressly defined in either of the educational and cultural exchange Acts, the GAO noted that the existing training sanctioned by the Agency "did not have the same status as the categories mentioned in the statutes and would not generally be considered to have the same educational and cultural value." Id. at 16.

The Agency is of the opinion that the vast preponderance of the exchange visitor training programs are conducted well within the legislative authorities created by the Act. However, the GAO found that certain training programs inappropriately "consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities. This training involved participants in such capacities as waiters, cooks, hotel workers, and automobile body repairers." Id. at 3. It is noted that the GAO Report stated only that "some" training programs consisted primarily of employment in commercial enterprises with no cultural or educational emphasis placed on the participants' activities.

Distinction Between Work and Training

As noted above, the Agency has been criticized for allowing the Exchange Visitor Program to be used to circumvent the immigration and labor laws of the United States by allowing foreign workers to use the program under the guise of educational and cultural exchange. This criticism has centered on designated private sector training programs and has generated considerable debate concerning the distinction between work (i.e. gainful employment) and training. Recognizing that training more often than not occurs in a work place setting, the Agency has determined that the distinction between unauthorized gainful employment and authorized training may best be drawn through examination of the components of a *bona fide* training program. The requirements for a *bona fide* training program are set forth in § 514.22(f).

The Training Plan

As a prerequisite to Agency designation, the Agency is requiring that applicants submit a training plan which describes what the training objectives are, the competencies which the trainee will obtain through participation in the training program, a general description of the schedule of the training activities, and a justification for the use of on-the-job training to achieve the objectives of the training course. Special skills, e.g., computer training, to which the trainee will be exposed should also be noted.

The Agency has received many comments suggesting that the training plan requirement will be unduly burdensome in all cases, and in some cases, impossible to comply with because the sponsor is active in many different training areas. The Agency believes that the final regulations set forth herein meet those objections.

Applicants need not submit a training plan for each trainee. However, the applicant must submit a training plan for each type of training it intends to conduct. For purposes of these regulations, the Agency has listed twelve broad categories and it believes that every conceivable type of training will fall within one of these twelve categories. See § 514.22(c)(2). Moreover, the Agency believes that the submission of a maximum of twelve training plans is not unduly burdensome.

Sections 514.22 (f) and (g) set forth that information which the applicant is to include in the training plan and describes three types of training plans which an applicant may utilize in order to comply with the regulation.

The Agency recognizes that at the time the applicant is applying for designation it may not have identified individual trainees who are going to participate in its program. In such instances, the applicant need only submit a generalized, hypothetical training plan which illustrates the training the applicant proposes to provide.

In other instances, the applicant may not have prepared the training plan at the time it applied for designation. However, if the applicant, directly or through third parties, has previously been engaged in the same sort of training for which it is now seeking designation it may submit a copy of a previously used training plan.

If the applicant has already designed a structured training plan at the time it is applying for designation, a copy of such training plan should be submitted with the application.

If all of the above instances, the applicant should bear in mind that the Agency's interest is not in creating needless paperwork, but in having sufficient facts to determine that the applicant or third party is capable of conducting the training for which designation is sought.

The Agency is aware that many sponsors will expand the breadth of their programs. If a sponsor desires to add additional training areas to its program, it does not need to apply formally for re-designation. The sponsor may simply request the Agency to amend its designation to include the added training areas. The sponsor must, however, submit a general training plan for each new training area added to its designation.

Specialty and Non-Specialty Occupations

The Agency does not necessarily view a specialty occupational trainee as a worthier participant in the Exchange Visitor Program than a non-specialized occupational trainee. Therefore, non-specialty occupational training programs will be designated if otherwise in compliance with the regulations. However, the Agency considers the distinction to be significant because past experience has shown that some of the non-specialty occupational training programs were, in reality, work programs designed to meet the staffing needs of an employer. Thus, the Agency has determined that non-specialty occupational programs may require closer monitoring after designation than was previously undertaken in the past.

The Agency has concluded that the potential for inappropriate usage of the J visa is most pronounced in those non-specialized occupational areas which are generally considered unskilled in nature. For example, the Agency would not approve an application for designation of a program to train persons in clerk typist skills or in nurses' aides or orderly skills. The Agency will presume that such training would in reality be designed for staffing purposes and, therefore, inconsistent with the Agency's mission. A listing of those occupations which the Agency considers to be unskilled is set forth in appendix F to part 514.

A number of commenters expressed concern about the Agency's intended use of the Department of Labor's "Schedule B" as a listing of unskilled occupations. It was suggested that Schedule B is a listing of occupations which the Department of Labor has determined are in sufficient supply within the U.S. labor market and for which additional foreign workers are not needed, and was not intended by the Department of Labor to be a definitive listing of unskilled occupations. The Agency is aware of the use to which the Department of Labor puts Schedule B. Nevertheless, Schedule B, in the Agency's view, does conveniently set forth a listing of occupations which are inherently unskilled. The Agency will utilize the listing for the purpose of approving or

denying designations of proposed training programs. Should the Agency determine in the future that the listing of unskilled occupations requires additions or deletions, it will do so. Applications for designation of training programs in occupations listed in Appendix F will not be approved.

Upon review of the comments, the Agency has made certain revisions to the listing of occupations in which it will designate training programs (§ 514.22(c)(2).) It is believed that the revised listing covers all conceivable types of training.

Justification for the distinction between "specialty occupation" and "non-specialty occupation" may be found in both the original regulations governing the Exchange Visitor Program and in the legislative history of the Acts. In 1949, the Department of State permitted "trainee" participants pursuing training in "public administration, industry, medicine, agriculture, or some other specialized field of knowledge or skill * * *". 22 CFR part 68 (1949) (emphasis added). The legislative history of the Smith-Mundt Act refers to the training of meteorologists, agricultural research by the operation of collaborative experiments and research stations, hydroelectric experts, malaria experts, and experts in the fields of economics, business administration, agricultural design and construction, communications, and distribution of electric power. See United States Information and Educational Exchange Act of 1948: Hearings on H.R. 3342 Before a Special Subcomm. of the House Comm. on Foreign Affairs, 80th Cong., 1st Sess. 148–50 (1947).

While most of the early exchange visitor training programs fell in specialized areas such as those noted above, the legislative history of the 1961 Fulbright-Hays Act strongly suggests that Congress intended the program to be broadly construed and highly flexible and adaptable to changing needs and conditions. In recognition that non-specialty occupational training programs can be an important part of our foreign policy, the Agency will not exclude them from the Exchange Visitor Program. Since the passage of the Fulbright-Hays Act, the world has seen a major expansion in non-specialty occupational training and such programs have become an important part of our foreign policy, which the Agency intends to continue. However, for the reasons set forth above, the Agency will subject non-specialty occupational training to higher scrutiny in order to ensure that such training is *bona fide*.

As noted above, while the Agency will not require that a detailed training plan be submitted for each trainee, we anticipate that sponsors engaged in *bona fide* training programs will, in the ordinary course of business, prepare such plans and retain them in their files. The Agency may from time to time request an opportunity to inspect these training plans in order to verify sponsor compliance with Agency regulations.

Sponsor Supervision

The sponsor of the program must be directly responsible for all aspects of the trainee's activities while the trainee is in the United States, including the selection, orientation, training, supervision, and evaluation of the trainee. The purpose of this regulation is to assure that responsibility for the trainee resides in one place. It has always been the policy of the Exchange Visitor Program that sponsors be directly responsible for these aspects of the Program, yet analysis of some programs reveals that this policy has not always been observed. The final regulations codify and strengthen this existing long-standing policy.

However, in order to carry out the actual training set forth in a sponsor's approved training plan, the Agency has determined that utilization of a third party to conduct one or more aspects of the training is appropriate. If the sponsor elects to delegate its responsibility for providing all or parts of the training to a third party, the sponsor is nevertheless accountable for ensuring that the third party complies with these regulations. A third party's violation of these regulations shall be imputed to the sponsor; therefore, the sponsor's obligation to monitor, control, and oversee the third party is absolute. Simply put, a third party may act for or in place of the sponsor; however, the accountability of the sponsor shall be non-delegable.

The Agency will no longer approve an organization as a sponsor of a training program where the organization or its agent abdicates its responsibility to train and supervise the trainee. The regulations, as noted, will require that the sponsor retain full responsibility for the conduct of the program. Simply placing a trainee in a third-party training program will not be allowed in the future if the sponsor abdicates accountability for the training and well-being of the trainee.

When a third party is utilized by the sponsor, the Agency will require that there be a written agreement between the sponsor and the third party. The agreement need not be a multi-page, complex legal document. However, the agreement must recite the third party's obligation to act in accordance with all Agency promulgated regulations applicable to the sponsor.

Evaluations

The proposed regulations include a requirement that trainees be evaluated semi-annually and upon conclusion of the training program (§ 514.22(m)). For training programs of less than nine months, the proposed regulations require an evaluation at mid-point and upon conclusion of the training program. In response to a number of comments received on this section, the Agency has amended the regulation as follows: Trainees will be evaluated at mid-point in their training and when they conclude the program. For training programs of less than three months, the trainee need be evaluated only upon conclusion of the training program.

Flight Training Programs

Included amongst the exchange visitor programs currently designated by the Agency are flight training programs. The Agency considers flight training to be in an important yet sensitive occupational area which requires that particular attention be given to quality assurance. Additionally, flight training schools require more financial resources than many other types of training programs.

Over the past two years, five of the thirty Agency-designated flight training programs have met with financial failure and recently one flight training program was suspended by the Agency for serious violations of Agency regulations. These incidents suggest that the Agency must monitor more closely the flight training programs in order to ensure that program participants are adequately protected.

The Agency has engaged in considerable dialogue with representatives of flight training programs during the course of the Agency's regulatory reform effort. The Agency has conveyed to the sponsors its concerns about the financial stability of a number of sponsors and its concerns about the "work vs. training" issue involved in flight training programs. Similarly, the flight training sponsors and those seeking to become designated flight training sponsors have expressed their concern over the eighteen month maximum duration, arguing that flight trainees require more time to complete their training.

The Agency believes that a longer stay, up to a maximum of twenty-four months, is justified in the case of flight training because of the strict training requirements of the international

aviation community. As under current regulations, any extension of the program beyond that maximum must be specifically approved by the Agency, and such extensions will be granted only under highly unusual circumstances. The Agency is hopeful that its concerns about the "work vs. training" issue will be met by the flight training programs by their adherence to the regulations concerning the training plan and use of third parties.

Flight training sponsors have also argued that participants in flight training programs should more properly be treated by the Agency as "students" rather than as "trainees" because typically flight training programs are more like schools than training programs in that they follow fixed curricula, have classroom instruction, and, at least in some cases, are accredited by nationally recognized accrediting agencies. It was further argued that placing flight training program participants in the student, rather than the trainee category, would also entitle the flight student to a total of eighteen months of training at the conclusion of the classroom portion of the program, rather than the maximum of eighteen months period of participation permitted under the training regulations.

The Agency has considered those arguments and has concluded that the flight training participants more appropriately fit under the training category than the student category. Moreover, the stated goals of the flight training program participants are better met under the trainee category than under the student category. For example, § 514.23 ("College and University Students") requires that the student be studying at a degree-granting post-secondary educational institution. Most flight training schools do not grant degrees.

Therefore, in order to meet the Agency's concerns about quality assurance and financial stability of flight training programs, while at the same time allowing flight trainees to gain more training time in the U.S., the Agency is making final the following regulations:

1. All flight training programs must be accredited by a nationally recognized accrediting authority. The Agency will consider only the applications of those programs which have already been accredited as set forth in the regulation, or which have formally commenced the accreditation process. The Agency is aware that accreditation may take as long as one year to be completed. The Agency will, therefore, accept applications for designation from flight schools which have commenced the accreditation process, but will only conditionally designate them for up to twelve months. Similarly, currently-designated flight training programs will be conditionally redesignated for up to twelve months, but only if they have commenced the accreditation process.

2. With respect to duration of participation, flight trainees are to be granted an additional six months of training time beyond the normal eighteen-month maximum duration of participation.

The Agency believes that this proposal is a reasonable accommodation to the need of the Agency and the needs of the flight training industry. Recognizing that there are both time and cost considerations in the accreditation process, the Agency is willing to extend the training time allowed to flight trainees to balance the accreditation requirement and in recognition of the special circumstances surrounding flight training.

The Duration of Participation

The Agency had considered limiting training programs to twelve months. Upon consultation with a number of current sponsors, the Agency decided to keep the duration of training programs to a maximum of eighteen months, as is presently provided for in the regulations. The primary purposes of training under the Exchange Visitor Program are to expose the visitor to uniquely American techniques, methodology, and philosophy in the visitor's field of endeavor and to provide an opportunity for open interchange of ideas between the visitors and Americans. The law envisions that exchange visitors will return to their home country to share with their compatriots their experiences in the United States, including the fruits of their training. While many of the exchange visitor training programs funded by the United States Government are for less than eighteen months in duration, the Agency concludes that many private sector programs may require eighteen months to maximize the benefits to the trainee.

Section 514.23 College and University Students

The Agency received 209 comments on the proposed college and university student regulations. The comments were thoroughly reviewed and a number of changes in the proposed regulations were made. They focused mainly on the academic training, student employment, non-degree programs, and duration of program.

In response to requests from the academic community, the Agency sought to clearly define when and under what circumstances a student should be issued a J visa. Under the proposed regulations, sponsors should place foreign college and university students in their exchange visitor program when the students' academic programs are funded by the United States Government, the government of the exchange visitor's home country, an international organization of which the United States is a member, or when the program is carried out under an agreement between the United States and a foreign government. The proposed regulations also permitted sponsors to place foreign students in their exchange visitor program if the program is carried out under a written agreement between American and foreign educational institutions, or when foreign students are supported substantially by scholarships designed to promote international educational exchanges.

Numerous comments recommend that the Agency broaden § 514.23(c)(3) which allows foreign nationals in the college and university student category when they are substantially funded by scholarships designed to promote international education. Upon full deliberation, the Agency agreed with this suggestion. The final regulations permit exchange visitors who are supported substantially by funding from any source other than personal or family funds to be eligible for the college and university student category.

Exchange visitors under the college and university student category may participate in degree and non-degree programs at post-secondary accredited educational institutions. The Agency allows college and university students to participate under the Exchange Visitor Program at post-secondary accredited educational institutions if they are (i) pursuing a recognized full course of study leading to or culminating in the award of a U.S. degree; or (ii) engaged full-time in a prescribed course of study of up to 24 months duration. The latter category is proposed for the benefits of college or university students who seek to pursue a clearly defined non-degree academic program.

Non-degree programs may include classroom instruction, intensive English language training, thesis research, and/or academic training. The critical requirement is that the non-degree program be a prescribed course of study. The Agency will rely on the educational institution to determine whether an exchange visitor student meets the

definition of a prescribed course of study as set forth in the regulations.

Exchange visitor students are required to take a full course of study at a post-secondary accredited educational institution, unless they satisfy one or more of the exemptions as set forth in § 514.23(e). Full course of study for a college or university student is defined by the post-secondary accredited educational institution where the student is registered. Comments on this provision were favorable.

Numerous comments recommend a variety of changes to the exemptions of the full course of study requirement. Several comments suggest changes in the exemptions dealing with vacation periods, medical problems, academic difficulties and employment pursuant to scholarship, fellowship or assistantship and graduation. As a result of the Agency's review, the exemptions were significantly modified.

The Agency strongly supports academic training for college and university students and adopts liberal regulations governing the pursuit of such opportunities. Such training may include internships, practicums, and cooperative educational programs. It may occur during the exchange visitor's studies, after the completion of studies, or a combination of both when the requirements set forth in § 514.23(f) are satisfied.

Academic training must be an integral or critical part of the exchange visitor's academic program. A number of comments expressed concern over the use of the word "integral." The Agency believes that it is important to continue to require that the training is integral or critical to the exchange visitor's academic program. The use of the terms "integral" and "critical" in this provision does not require that the training be part of a co-op program or for credit by the educational institution. The educational institution will have the discretion to determine what types of training are integral or critical to the student's exchange program.

The Agency proposes that academic training be allowed for exchange visitor students when the exchange visitor:

(1) Is primarily in the United States to study rather than engage in academic training;

(2) Is participating in academic training that is directly related to his or her major field of study;

(3) Is in good academic standing with the post-secondary accredited educational institution;

(4) Will adhere to the period of time permitted for academic training;

(5) Receives approval in advance and in writing by the responsible officer for the duration and type of training; and

(6) Satisfies the other requirements set forth in these regulations.

A significant number of comments on academic training recommend that post-doctoral students be allowed an additional 18 months of such training. The rationale for the requests is that these students need up to 36 months to complete their post-doctoral research. Upon review, the Agency concurs. The final regulations provide for up to a total of 36 months for post-doctoral academic training, if the other requirements of § 514.23(f) are satisfied.

When students do not receive wages or remuneration when they participate in academic training during their studies, the requirements set forth in § 514.23(f) are not applicable. In this situation, the student needs only to obtain approval for such training by the academic dean or advisor and the responsible officer.

The Agency is desirous that students complete their studies in a timely manner. At the same time, the Agency recognizes the benefits of exchange visitor students working while studying. Numerous comments suggest that exchange visitors be allowed to work on-campus up to 20 hours per week. Upon full review of these comments, the Agency adopts these suggestions.

Accordingly the final regulations allow exchange visitor students to engage in part-time employment when it is approved by the responsible officer and is (1) pursuant to a scholarship, fellowship, or assistantship, (2) occurs on-campus, or (3) occurs off-campus when it is necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status. The regulations require that the exchange visitor student be in good academic standing and complies with the full course of study requirement. Exchange visitor students shall be permitted to be employed no more than 20 hours per week, except during official school breaks and annual vacations.

Section 514.24 Teachers

The Agency received no comments regarding the proposed regulations governing teachers exchanges. Accordingly, the proposed regulations are adopted without further modification.

Section 514.25 Secondary Students

Secondary school student exchange programs have been a part of United States public diplomacy efforts since 1949. Expanding from a small base of non-profit organizations dedicated to student exchange, the Agency currently designates sixty-two organizations to conduct such exchanges. Secondary student programs vary in size for 50 to 4,000 participants. In 1990, Agency-designated sponsors facilitated the entry of 24,552 secondary school students, accounting for approximately fifteen percent of all exchanges conducted under the aegis of the Exchange Visitor Program. Although generally viewed as a highly successful category of exchange activity, some secondary school student exchanges encounter problems which are best addressed through regulation.

The importance of these exchanges is best evidenced by the Agency's receipt of 59 comments on the proposed regulations. Such comments suggested that secondary school student exchanges should be permitted when the placement is at an accredited U.S. boarding school. The Agency has reviewed this matter and agrees that such placements should be permitted and has modified the regulatory language set forth at § 514.25(a) accordingly.

Program Administration

Mindful of the unique program considerations inherent to secondary school student exchanges, the Agency seeks to delineate clearly the obligations and responsibilities program sponsors must meet in administering such exchanges. Student participants are placed in a vulnerable position, far from home at a tender age. Due to this position, students are dependent upon program sponsors whose integrity, expertise, and professionalism must be above reproach.

Apparent to all observers is the fiduciary duty a sponsor owes to a student exchange participant. Such duty necessarily requires the sponsor to undertake responsibility for all aspects of the student participant's stay in the United States from the selection of a suitable host family and enrollment in a secondary school through on-going monitoring of the exchange and the student's return to the home country. To meet this duty satisfactorily the Agency concludes that an adequately trained and supervised staff, including agents or volunteers acting on the sponsor's behalf, is of paramount importance to secondary school exchange programs. The Agency therefore directs, pursuant to the provisions of § 514.25(d) that sponsors properly train and supervise all staff members and volunteers acting on their behalf.

Working with adequately trained and supervised staff and volunteers, the Agency proposes that all sponsors

maintain a monthly schedule of personal contact with the student and host family. The Agency contemplates that this degree of contact will provide adequate assurance that the student is successfully adopting to his or her new home and school environment. This monthly schedule of contact is a minimum. Sponsors will be expected to increase the level of contact with the student, school, and host family when adjustment problems so dictate. The Agency had proposed that sponsors also maintain monthly contact with the school at which the participant was placed. Upon review of comments received, the Agency is deleting this requirement on the basis that it appears excessive and unneeded.

To ensure that all students are properly supervised, the Agency adopts a new requirement that program sponsors arrange no host family placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters. A geographical limitation is proposed to enhance the sponsor's ability to maintain the proposed level of contact. This geographical limitation is a maximum. If staff members or volunteers are unavailable in a given geographic location, the sponsor must necessarily refrain from placing a student in such location.

Student Selection, Enrollment, and Orientation

8 U.S.C. 1101(a)(15)(J) provides, in part, that an exchange visitor may enter the United States under the aegis of a J visa if such visitor is a *bona fide* student actively engaged in *bona fide* academic study. Pursuant to this statute, Agency stewardship of the Exchange Visitor Program requires that the *bona fides* of an exchange visitor's academic studies be ascertained. The Agency concludes, in light of this statutory requirement, that a modification of the maximum age for participation in a secondary school student exchange program is required.

The Agency is obligated to utilize the United States standard of 12 years of primary and secondary school study in assessing *bona fide* student status. Students who have completed not more than eleven years of primary and secondary study will be deemed, automatically, *bona fide* secondary school students. Attendance in kindergarten should be excluded for the purpose of calculating years of study under this 12 year standard. This standard is of limited importance except to those students who continue their studies into A-level or international baccalaureate programs or their equivalent. Students who complete this additional level of study are, in academic terms, the equivalent of United States college and university students.

Students intending to continue their studies in an A-level or international baccalaureate program may participate in a secondary school student exchange program prior to their enrollment in A-level or international baccalaureate studies. Such students will not have completed 12 years of study as determined by United States standards and would therefore be appropriately placed with their United States peers at the senior year of high school level.

After consultation with Agency-designated sponsors, and in an effort to accommodate potential secondary school student exchange participants who have completed international baccalaureate or A-level studies, the Agency has determined that *bona fide* secondary school student status should also be extended to participants who are not more than 18 and a half years of age at the time of enrollment in a United States secondary school.

It has come to the Agency's attention that some students have returned to the United States in an exchange program for a second year of study. The Agency concludes that this is an inappropriate practice which must be curtailed. To this end, the Agency directs at § 514.25(e), below, that sponsors specifically inquire whether a potential exchange student has previously participated in a secondary school exchange program and disqualify for further participation any student who has.

Provisions governing the enrollment in United States schools of selected student participants are set forth at § 514.25(f). The Agency seeks to safeguard this program's integrity and good reputation among school administrators by continuing to require the prior written acceptance of the student by an appropriate school official. Each September the Agency is contacted by local school principals who have been surprised to find an unannounced exchange student on the school's doorstep. Given the administrative burden and inconvenience which accompanies unanticipated arrivals, the Agency will henceforth strictly enforce the regulatory requirement that all students be authorized for school enrollment prior to their entry into the United States.

As a policy matter, the Agency seeks to ensure that all exchange participants are properly and timely informed of matters germane to their exchange experience. Pursuant to § 514.25(g) set forth below, the Agency requires that secondary student exchange sponsors to provide all participants with advance notice of travel, school, community, and host family arrangements. This information must be provided well enough in advance of the student's departure from the home country to be of use to the student. Additionally, the student must be apprised of all operating procedures, rules, and regulations governing participation in the exchange program.

Host Family Selection, Placement, and Orientation

The Agency has considered, at some length, the recurrent problems associated with host family placements. Aware that tensions will develop naturally from the obligations which arise from serving as a host, the Agency seeks to introduce some measure of uniformity to host family selections. Specific provisions governing host family selection are adopted as set forth at § 514.24(j), below.

First and foremost among such selection criteria is the need to ascertain that potential host families fully understand both the rewards of hosting an international student as well as the duties and obligations attendant thereto. To this end, the Agency will require that sponsors utilize a standard application form which solicits a detailed profile of the family and conduct an in-person interview with all family members residing in the home. In-person interviews will allow the sponsor to determine whether the potential host family is capable of providing a comfortable and nurturing home environment and that the decision to serve as a host family is one which is supported by all family members.

Due to the vulnerable position in which a student is placed by the nature of these exchanges, sponsors will be expected to undertake appropriate safeguards to ensure that the potential host family is of good reputation and character. Recognizing that one incident of abuse is beyond the pale of acceptability, the Agency must insist that sponsors exercise due diligence in the screening of all potential host families. A mere superficial compliance with this regulatory requirement will not be tolerated. Recommendations from members of the community as well as solicitation of the local school official's opinion of the potential host family may be considered a bare minimum in this regard. In similar fashion, sponsors must also satisfy themselves that the potential host family possess adequate

financial resources to undertake hosting obligations.

Having adequately screened the potential host family, sponsors will in turn be expected to properly orient the family concerning the exchange activity. Host families must be fully informed of the sponsor's rules and regulations which govern the exchange program and be provided with a copy of Agency promulgated Exchange Visitor Program regulations. In addition to these requirements, the Agency will require, pursuant to § 514.25(k) below, that sponsors conduct orientation workshops designed to familiarize the host family with cultural differences and practices as well as strategies for effective cross-cultural interaction.

Finally, the Agency concludes that the quality and integrity of secondary school student exchanges are best safeguarded by requiring sponsors to secure a host family placement for a student participant prior to his or her departure from the home country. This requirement, set forth at § 514.25(1), below, when coupled with the requirement of advance written acceptance by local school officials will remove any uncertainty from the parameters of the student's exchange. The Agency has been advised by sponsors that host family placements are always made before the student arrives in the United States. Without debating the veracity of this statement, the Agency concludes that a mechanism to ensure that such placements have been made in timely fashion is required.

To ensure that such host family placements, as well as school placements have been made, the Agency will require that sponsors submit to the Agency, by August 31st of each school year a listing of student participants, their school and host family placement. For placements beginning in the spring semester placement reports will be due by January 15th. This requirement is proposed in lieu of listing the name and address of the host family and school placement on the Form IAP–66 and embodies the suggestions of various exchange sponsors. In response to comments received, the Agency has extended the due date for submission of placement reports. It is important to note that placement reports will be required only when the sponsor has elected to not list the host family and school placements on the Form IAP–66.

Placement reports are an accommodation to some program sponsors who have requested this added programmatic flexibility. The Agency has determined upon review of this matter that the practice of most sponsors is to list the host family and school placement. The Agency concludes that placement reports will provide the desired certainty in respect to the parameters of each individual exchange but will also allow sponsors to continue their administrative placement process as long as possible.

Section 514.25 Specialists

Exchanges of American and foreign specialists exemplify the reciprocal exchanges of persons that the Fulbright-Hays Act seeks to promote. These exchanges have resulted in a flow of specialists between the United States and other countries, and have contributed to the growth of mutual understanding and dissemination of knowledge that is at the heart of the Exchange Visitor Program. Such exchanges are primarily nonacademic and provide opportunities to increase the interchange of knowledge and ideas between American and foreign specialists, and promote improved professional relationships and communications.

Although specialists have played an important role in the Exchange Visitor Program, regulations which specifically address this category of exchange visitor participation have never been promulgated. The Agency received four comments regarding specialists, all involving the duration of program participation. Having reviewed these comments the Agency is herein adopting the regulations as proposed.

Section 514.27 Alien Physicians

Federal law requires that foreign physicians seeking to pursue graduate medical education or training in the United States must do so on a J visa. This centralization of authority for the admission of such aliens is due, in part, to past concerns regarding the academic and medical qualifications of foreign trained physicians. Since 1971, the Educational Commission for Foreign Medical Graduates ("ECFMG") has administered the issuance of Form IAP–66 for foreign medical graduates coming to the United States to pursue graduate medical education or training.

Foreign physicians must successfully complete examinations administered by ECFMG which measure their command of medical sciences. Such exam was, until 1983, the Visa Qualifying Examination. Currently, the required exam is Parts I and II of the National Board of Medical Examiners Examination. The National Board of Medical Examiners plan, however, to adopt as of January 1993 a new examination, the United States Medical Licensure Examination Steps I, II, and III. In light of this impending change the proposed regulations require an alien physician participant to successfully pass this examination.

A total of six comments regarding alien physicians were received by the Agency. In response to these comments the Agency is adding an additional requirement that alien physicians engaged in clinical research or training must submit an agreement or contract from the accredited U.S. medical school, affiliated hospital, or scientific institution at which the research or training activity will occur. This addition is necessitated by statutory language set forth in the Health Care Professions Act, Public Law 94–484, as amended.

Section 514.28 International Visitors

In the proposed regulations, international visitors programs are for foreign nationals who are recognized or potential leaders and are selected by the Agency to participate in observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel. The international visitors category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals, Americans, and American institutions. The Agency will continue the general limitation of participation for international visitors to one year. Such exchanges are intended specifically for short-term exchanges.

The Agency continues to encourage the private sector and other government agencies to sponsor similar types of short-term exchange programs. The active participation of all parties is critical to the development and success of short-term exchange programs. Accordingly, the Agency sets forth the categories of short-term scholar and specialist, especially for the private sector, and government visitors for exchangees selected by U.S. federal, state, and local government agencies.

The Agency proposed that the category of international visitors be for its exclusive use. Three comments regarding international visitors were received. All comments suggested that this category of participation not be limited to Agency use only, or in the alternative that a "private sector visitors" category be created to mirror the international visitors category. Given the ability of designated sponsors to conduct exchanges similar in nature to the international visitor under other categorical designations, the Agency has determined it appropriate to reject this suggestion and adopt the proposed regulations without modification.

Section 514.29 Government Visitors

The Agency proposed the establishment of a government visitors category to encourage U.S. federal, state, and local government agencies to expand their role in the Exchange Visitor Program. Currently, a number of government agencies are designated sponsors of the Exchange Visitor Program. The Agency intends that government sponsors continue to use a variety of categories for their exchange visitors, including the category of government visitors.

For the purpose of this section, government agencies include such entities as U.S. federal, state, and local government agencies (e.g., federal agency or commission, a state department of education, county government, incorporated city, and local school district). A government agency as used in this category does include an international organization of which the U.S. is a member by treaty or statute. However, a government agency as used in this section does not include state colleges or universities, unless such programs are sponsored by their state department of education.

The Agency has proposed that foreign nationals be eligible for a government visitors program when they meet the following three criteria. They shall be (a) selected by a U.S. federal, state, or local government agency, (b) engaged in consultation, observation, training, or demonstration of special skills, and (c) an influential or distinguished person. Under this category, exchange visitors are eligible to participate in such activities as observation tours, discussions, consultations, professional meetings, conferences, workshops, and travel.

Two comments regarding this category were received, both of which questioned the Agency's reservation of international visitor to its own use and the need to create this additional category. The Agency believes that the government visitor category is necessary to meet the needs of the exchange community and is adopting the proposed regulation without modification.

Section 514.30 Camp Counselors

As discussed in subpart A above, the Agency has determined that camp counselor programs are an appropriate addition to the matrix of exchange activities conducted under the Exchange Visitor Program. Such exchanges have a long history and have provided thousands of foreign nationals the opportunity to observe the United States and its people through their employment with domestic summer camp facilities. Although the Agency has traditionally viewed these exchanges as a youth activity, upon review it appears appropriate to expand permissible participants to include *bona fide* youth workers and individuals demonstrating special skills.

The Agency will require that all participants be at least eighteen years of age and have not previously participated more than once in a camp counselor exchange. This latter requirement ensures that as many persons as possible are recruited for these exchanges and that the participants are not utilized for staffing purposes inconsistent with exchange objectives.

Sponsors must conduct in-person interviews with all potential participants and secure references regarding the participant's suitability for a camp placement. Most importantly, sponsors must under no circumstances facilitate the entry of a participant for whom no camp placement has been arranged. The very nature of an exchange requires a prearranged placement. Recruitment of individuals and their "warehousing" in hotels awaiting placement arising from staff shortages is not viewed as an acceptable practice by the Agency. To ensure that placements are arranged in advance a placement report, reflecting the participant's name and placement, must be submitted to the Agency no later than July 1st of each program year.

The Agency received twenty-one comments regarding this issue, all urging that repeat participation be unlimited or modified to allow some discretion to permit more than two years of participation. After careful deliberation, the Agency has determined that the program and policy considerations underlying the purposed two year limitation outweighs the administrative convenience of camp directors which, was the suggested reason for dropping such two year limitation.

Subpart C: Status of Exchange Visitors

Regulations proposed in this subpart govern various administrative chores relating to an exchange participant's visa status. At § 514.40, the Agency adopts criteria for termination of a program participant's exchange visitor status. This regulation includes a provision which directs the sponsor to terminate a participant from the Exchange Visitor Program for willfull failure to maintain insurance coverage. Such provision is necessary to prompt compliance with the adopted insurance requirements. Sponsors may terminate an exchange participant for serious violations of sponsor program guidelines and directives. Sponsors shall terminate a participant due to his or her failure to pursue the activities for which sponsored.

At § 514.41 the Agency adopts regulations governing changes to a visitor's category of participation. Few participants request a change in their category of participation and the Agency has generally discouraged such action as a program matter. Recognizing that a change of category may often benefit both the participant and the Exchange Visitor Program, the Agency provides that requests for such change be submitted to the Agency for approval. The Agency intends to approve only those requests which are due to unusual or exceptional circumstances. A change in category must be clearly consistent and closely related to the participant's original exchange objective. By way of illustration, a Ph.D. student participant may, upon a showing of unusual and exceptional circumstance, change to the research scholar category.

In an effort to simplify the visa status requirements for exchange participants, the Agency proposes that transfer of program transactions be facilitated by the sponsors involved without INS adjudication or Agency review. As set forth at § 514.42 sponsors seeking to facilitate a change of program for an exchange participant shall secure the participant's release from the original sponsor and notify the Agency by submitting a duly executed Form IAP–66 reflecting such transfer. In similar fashion, the mechanics of extending a participant's program have also been simplified.

The Agency makes final a rule that sponsors extend a participant's program by executing a new Form IAP–66 which reflects the new program termination date. INS adjudication of this extension will not be required so long as the extension does not exceed the categorical duration of participation limitation. As an illustration, a sponsor may extend a research participant's program, one year at a time, so long as the three-year category limitation on research scholar programs is not exceeded. As set forth in § 514.43, the sponsor shall notify the Agency of this action by forwarding a duly executed Form IAP–66 reflecting such extension. In those circumstances in which an extension past the categorical duration of participation is sought, Agency approval in INS adjudication will be required.

Finally, the provisions governing application of the two-year home country physical presence requirement

are set forth at § 514.44. This long-standing program requirement is applicable to participants for whom government financing of the exchange was made or who have acquired skills for which there is a need in their home country. The Agency has developed, in cooperation with foreign governments, a listing of such skills. This "skills list" may be found at 49 FR 24194, et seq. (June 12, 1984). Revision of the skills list will begin in the near future. Waiver of the two-year home country requirement is possible and provisions governing such waiver requests are also set forth in this regulation. Provisions addressing waiver procedures as well as the composition and functions of a Waiver Review Board are also set forth.

Subpart D: Sanctions

The Agency received 40 comments on the proposed sanctions regulations. The comments were carefully reviewed and several important changes in the proposed regulations were made, as will be discussed below.

The Agency first promulgated regulations providing for sanctions for violations of the Exchange Visitor Program regulations in 1978. The regulations were expanded in 1987 to provide additional procedural due process rights of those threatened with suspension or revocation for violations of the Exchange Visitor Program Designation, Suspension, and Revocation Board ("the Board").

That the Board has had to be convened only once since 1987 to hear a revocation case speaks highly of the thousands of institutions which have been designated over the years as exchange visitor program sponsors. Nevertheless, the Agency has long been hamstrung in its oversight of the Exchange Visitor Program by the absence of regulations providing for sanctions of less severity than suspension or revocation. As part of the overall regulatory reform of the Exchange Visitor Program, the Agency believes that the regulations, on the one hand, need to be strengthened so as to provide for sanctions against sponsors who violate the Exchange Visitor Program regulations and, on the other hand, to provide those offending sponsors with clearly defined procedural due process rights. This will improve the Agency's managerial oversight and allow the Agency to move rapidly against a sponsor whose acts or omissions endanger the health, safety or welfare of a program participant. The Agency believes that the final sanctions regulations meet the needs of all concerned.

As is true of all the Exchange Visitor Program regulations, the ultimate goals of the sanctions regulations are to further the foreign policy interest of the United States and to protect the health, safety and welfare of Exchange Visitor Program participants. A violation of the regulations may result in both of those goals being frustrated. For example, a secondary school student exchange program sponsor that willfully or negligently allows a teenage exchangee to come to the U.S. without first having placed the exchange with a host family, or that fails to confirm transportation arrangements for the exchangee, may have endangered that teenager's health, safety and/or welfare. Should a teenager be injured in an accident or as a victim of a crime, it is not only a personal tragedy, but there well may be adverse foreign policy effects arising from the incident.

To hypothesize another situation, if a sponsor undertakes to provide health and accident insurance to its program participants but actually fails to cover its participants, and a participant is injured in the course of participating in the program and requires extensive medical treatment for which the participant is unable to pay, then not only does the health care provider suffer financially but the reputation of the Exchange Visitor Program suffers as well. Indeed, resulting claims made by the health care provider may well have adverse foreign policy effects.

Clearly, not all violations of the Exchange Visitor Program regulations are of equal gravity. The final regulations recognize that violations of the regulations range over a spectrum from, for example, an inadvertent, negligent failure to comply with a program reporting requirement, at one end of the spectrum, to a willful act endangering the health or safety of a program participant, at the other end of the spectrum. Recognition of this spectrum of violations is reflected in the various sanctions provided for in the proposed regulations. Like the spectrum of violations, the sanctions also cover a spectrum, ranging from "lesser sanctions" for less serious violations to revocation for the most serious violations. The proposed regulations provide varying procedural due process safeguards at each level of sanctioning. The sanctions fall into four categories.

1. Lesser Sanctions

For minor violations of the regulations, which interfere with the Agency's proper administration of the Exchange Visitor Program but do not rise to the level of endangering the health, safety or welfare of program participants or of bringing the Program or the Agency into notoriety or disrepute, the final regulations provide for the imposition of sanctions of less severity than suspension or revocation. Examples of such violations may include, but are not limited to, the following: Failure to timely provide the Agency with an annual report; failure to provide the Agency with specially requested information to which it is entitled under the regulations; failure to adequately safeguard Forms IAP–66; negligent misrepresentations made by a sponsor in its promotional literature. The final regulations provide that, with respect to such violations, the Agency may, in its discretion, impose any or all of the following sanctions: A letter of reprimand, warning that repeated or persistent violations of the regulations may result in a suspension or revocation of the sponsor's designation, or a directive to the sponsors that it must reduce the scope of its exchange programs numerically, geographically, or in terms of the types of exchange programs it offers.

Upon being given notice that the Agency is imposing such a sanction, the sponsor has the opportunity to submit to the Agency any arguments in explanation or mitigation of the alleged violation. As requested by one commenter, the Agency has made provision in the final regulation that any submission, made by a sponsor shall be made a part of the sponsor's file at EVPS. The sponsor may request a conference to discuss its submission. However, the Agency is not required to grant such a conference. The Exchange Visitor Program Office, upon its review of such submission, may, in its discretion, modify, withdraw, or continue the imposition of the sanctions.

2. Suspension

The final regulations provide that in all suspension actions, other than the summary suspension, the sponsor is given notice in writing that the Agency intends to suspend the sponsor's designation for a period not to exceed one hundred twenty (120) days, specifying the grounds for the suspension. Before the suspension takes effect, the sponsor has an opportunity to submit a response to the Agency, setting forth any reason as to why the Agency should not suspend, and may include any documentary evidence or affidavits in support thereof, including information which demonstrates that the sponsor is in compliance with all lawful requirements. After the Agency reviews the sponsor's submission, it notifies the sponsor of its decision on

whether or not to effect the suspension. If the decision is to effect the suspension, then the Agency must inform the sponsor of its right to appeal and of its right to a formal hearing before the Board.

The final regulations also set forth the sponsor's procedural rights before the Board. The key difference between the "summary suspension" and all other suspension proceedings is that in the former the suspension takes effect immediately upon notice being given to the sponsor, whereas in the latter the suspension does not take effect until the Board decides to effect the suspension after the completion of the appeal and hearing.

3. Summary Suspension

Current regulations provide for a form of summary suspension. 22 CFR 514.17(b). However, the current regulations require the Agency to give the sponsor at least ten days notice that it intends to suspend the designation. The suspension does not take effect until the Office of General Counsel considers and takes into account any response submitted by the sponsor. If the Office of General Counsel decides to effect the suspension, then the sponsor may appeal to the Board, which must make a decision within ten working days from receipt of the appeal. Thus, the summary suspension is summary in name only; the process, even in the best of circumstances, is lengthy. The health, safety or welfare of a program participant might already have been endangered. Under current regulations the Agency is virtually powerless to act in a prompt and decisive manner.

In order to remedy this deficiency, the final regulations provide for a true summary suspension which empowers the Agency to send a sponsor a written notice of the Agency's intent to suspend the sponsor's designation for up to sixty (60) days. Prior to the suspension becoming effective, however, the sponsor has a right to submit a protest to the Agency setting forth any reason why its designation should not be suspended and demonstrating that the sponsor is in compliance with all lawful requirements. The Agency will review the protest and decide whether or not to effect the suspension. If the decision is made to effect the suspension the sponsor may appeal the suspension to the Board. However, the suspension is not stayed during the pendency of the appeal.

The summary suspension, as is set forth in the final regulation, is to be used only in the most serious situations where the sponsor's acts of omission or commission could have the effect of endangering the health, safety, or welfare of an exchange visitor program participant and the Agency deems that immediate action is necessary.

4. Revocation

For serious willful violations of the Exchange Visitor Program regulations or for the omission or commission or an act which has or could have the effect of endangering the health, safety or welfare of an exchange visitor, where the Agency concludes that a continuation of the sponsor's designation is detrimental to the Exchange Visitor Program a revocation of the sponsor's designation may be the most appropriate sanction. Revocation is also the only realistic sanction to impose on the sponsor who willfully or through gross negligence repeatedly violates the regulations and takes no meaningful steps to bring itself into compliance.

Whereas the current regulations require that revocation must be preceded by suspension, the final regulation eliminates that requirement. Revocation commences with the Agency giving the sponsor not less than thirty days notice in writing, specifying the grounds for such revocation and the effective date of the revocation. The grounds for the revocation shall be stated in the notice, and before the revocation may take effect the sponsor has an opportunity to submit a response to the Agency providing any information in explanation or mitigation of the violations charged, or demonstrating that the sponsor is in compliance with all lawful requirements.

Upon receipt of such submission, the Agency will review same and notify the sponsor, in writing, of its decision. The sponsor is also notified of its right to appeal the revocation and of its right to a formal hearing. Within ten days of its receipt of the notice effecting the revocation, the sponsor may file its appeal with the Board. The filing of the notice of appeal serves to stay the revocation pending the appeal. The proposed regulation set forth the procedural rights accorded the sponsor at the hearing before the board.

5. Denial of Application for Redesignation

Current regulations make no provision for an appeal by an applicant in those cases where the Agency denies approval of an application for designation of an exchange visitor program. The final regulation creates a right of appeal for the applicant whose application is denied by the Office of Exchange Visitor Program Services and gives to that applicant the same procedural due process protections as are granted to sponsors against whom sanctions are imposed.

Several commenters expressed concern over § 514.9(3) of the proposed regulations. That section proposed that the Agency could recommend or direct the replacement of the responsible officer or any alternate responsible officer of a designated sponsor, but the provision afforded the responsible officer no appeal rights. The comments argued that replacement of a responsible officer was an unwarranted intrusion into the business and employment affairs of the sponsor and, moreover, the proposal did not provide the affected responsible officer with any procedural due process protections in a situation which could well affect the responsible officer's employment.

As a result of the Agency's review of the comments, the aforesaid § 514.9(3) was eliminated, and a new § 514.50(f) was inserted which provides that the appointment of a responsible officer or alternate responsible officer may be suspended or revoked. However, in such event, the responsible officer or alternate responsible officer has all of the rights of review or appeal that are accorded to a sponsor under the sanctions regulations.

The final regulation also sets forth the composition of the Board, which will consist of two Agency officials and member of the public to be appointed by the Agency's Bureau of Educational and Cultural Affairs, and sets forth in detail the powers of the Board in conducting hearings under this subpart.

Implementation Schedule

With the exception of the insurance regulations set forth in § 514.14, all regulations in part 514 shall become effective March 19, 1993. The insurance regulations shall become effective on September 1, 1994.

Regulatory Analysis and Notices

In accordance with 5 U.S.C. 605(b), the Agency certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612.

This information collection imposes a reporting burden on various entities and, as such, has been approved by the Office of Management and Budget (OMB) under OMB No. 3116–0210, in accordance with 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 514

Cultural Exchange Programs.

Dated: March 10, 1993.

R. Wallace Stuart,

Acting General Counsel.

Accordingly, 22 CFR part 514 is revised to read as follows:

PART 514—EXCHANGE VISITOR PROGRAM

Subpart A—General Provisions

Sec.

Subpart B—Specific Program Provisions

Subpart C—Status of Exchange Visitors

Subpart D—Sanctions

Subpart E—Termination and Revocation of Programs

Subpart F—[Reserved]

Subpart G—Summer/Work Travel

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1258; 22 U.S.C. 1431–1442, 2451–2460; Reorganization Plan No. 2 of 1977; E.O. 12048 of March 27, 1978; USIA Delegation Order No. 85–5 (50 FR 27393).

Subpart A—General Provisions

§ 514.1 Purpose.

(a) The regulations set forth in this part implement the Mutual Educational and Cultural Exchange Act of 1961 (the "Act"), as amended, Public Law 87–256, 22 U.S.C. 2451, *et seq.* (1988). The purpose of the Act is to increase mutual understanding between the people of the United States and the people of other countries by means of educational and cultural exchanges. Educational and cultural exchanges assist the Agency in furthering the foreign policy objectives of the United States. These exchanges are defined by section 102 of the Act, 22 U.S.C. 2452, and section 101(a)(15)(J) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1101(a)(15)(J).

(b) The Director of the United States Information Agency facilitates activities specified in the Act, in part, by designating public and private entities to act as sponsors of the Exchange Visitor Program. Sponsors may act independently or with the assistance of third parties. The purpose of the Program is to provide foreign nationals with opportunities to participate in educational and cultural programs in the United States and return home to share their experiences, and to encourage Americans to participate in educational and cultural programs in other countries. Exchange visitors enter the United States on a J visa. The regulations set forth in this subpart are applicable to all sponsors.

§ 514.2 Definitions.

Accompanying spouse and dependents means the alien spouse and minor unmarried children of an exchange visitor who are accompanying or following to join the exchange visitor and who are seeking to enter or have entered the United States temporarily on a J–2 visa or are seeking to acquire or have acquired such status after admission. For the purpose of these regulations, a minor is a person under the age of 21 years old.

Accredited educational institution means any publicly or privately operated primary, secondary, or post-secondary institution of learning duly recognized and declared as such by the appropriate authority of the state in which such institution is located; provided, however, that in addition to any state recognition, all post-secondary institutions shall also be accredited by a nationally recognized accrediting agency or association as recognized by the United States Secretary of Education but shall not include any institution whose offered programs are primarily vocational in nature.

Act means the Mutual Educational and Cultural Exchange Act of 1961, as amended.

Agency means the United States Information Agency.

Citizen of the United States means:

(1) An individual who is a citizen of the United States or one of its territories or possessions, or who has been lawfully admitted for permanent residence, within the meaning of section 101(a)(20) of the Immigration and Nationality Act; or

(2) A general or limited partnership created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, of which a majority of the partners are citizens of the United States; or

(3) A for-profit corporation, association, or other legal entity created or organized under the laws of the United States, or of any state, the District of Columbia, or a territory or possession of the United States, which:

(i) Has its principal place of business in the United States, and

(ii) Has its shares or voting interests publicly traded on a U.S. stock exchange; or, if its shares or voting interests are not publicly traded on a U.S. stock exchange, it shall nevertheless be deemed to be a citizen of the United States if a majority of its officers, Board of Directors, and its shareholders or holders of voting interests are citizens of the United States; or

(4) A non-profit corporation, association, or other legal entity created or organized under the laws of the United States, or any state, the District of Columbia, or territory or possession of the United States; and

(i) Which is qualified with the Internal Revenue Service as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code; and

(ii) Which has its principal place of business in the United States; and

(iii) In which a majority of its officers and a majority of its Board of Directors or other like body vested with its management are citizens of the United States; or

(5) An accredited college, university, or other post-secondary educational institution created or organized under the laws of the United States, or of any state, including a county, municipality, or other political subdivision thereof, the District of Columbia, or of a territory or possession of the United States; or

(6) An agency of the United States, or of any state or local government, the District of Columbia, or a territory or possession of the United States.

Consortium means a not-for-profit corporation or association formed by two or more accredited educational institutions for the purpose of sharing educational resources, conducting research, and/or developing new programs to enrich or expand the opportunities offered by its members. Entities that participate in a consortium are not barred from having a separate exchange visitor program designation of their own.

Country of nationality or last legal residence means either the country of which the exchange visitor was a national at the time status as an exchange visitor was acquired or the last foreign country in which the visitor had a legal permanent residence before acquiring status as an exchange visitor.

Cross-cultural activity is an activity designed to promote exposure and interchange between exchange visitors and Americans so as to increase their understanding of each other's society, culture, and institutions.

Designation means the written authorization given by the Agency to an exchange visitor program applicant to conduct an exchange visitor program as a sponsor.

Director means the Director of the United States Information Agency or an employee of the Agency acting under a delegation of authority from the Director.

Employee means an individual who provides services or labor for an employer for wages or other remuneration but does not mean independent contractors, as defined in 8 CFR 274a.1(j).

Exchange visitor means a foreign national who has been selected by a sponsor to participate in an exchange visitor program and who is seeking to enter or has entered the United States temporarily on a J–1 visa. The term does not include the visitor's immediate family.

Exchange Visitor Program means the international exchange program administered by the Agency to implement the Act by means of educational and cultural programs. When "exchange visitor program" is set forth in lower case, it refers to the individual program of a sponsor which has been designated by the Agency.

Exchange Visitor Program Services means the Agency staff delegated authority by the Director to administer the Exchange Visitor Program in compliance with the regulations set forth in this part.

Exchange visitor's government means the government of the country of the exchange visitor's nationality or the country where the exchange visitor has a legal permanent residence.

Financed directly means financed in whole or in part by the United States Government or the exchange visitor's government with funds contributed directly to the exchange visitor in connection with his or her participation in an exchange visitor program.

Financed indirectly means:

(1) Financed by an international organization with funds contributed by either the United States or the exchange visitor's government for use in financing international educational and cultural exchanges, or

(2) Financed by an organization or institution with funds made available by either the United States or the exchange visitor's government for the purpose of furthering international educational and cultural exchange.

Form IAP–66 means a Certificate of Eligibility, a controlled document of the Agency.

Full course of study means enrollment in an academic program of classroom participation and study, and/or doctoral thesis research at an accredited educational institution as follows:

(1) Secondary school students shall satisfy the attendance and course requirements of the state in which the school is located;

(2) College and university students shall register for and complete a full course of study, as defined by the accredited educational institution in which the student is registered, unless exempted in accordance with § 514.23(e).

Graduate medical education or training means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include programs involving observation, consultation, teaching or research in which there is no or only incidental patient care. This program may consist of a medical specialty, a directly related medical subspecialty, or both.

Home-country physical presence requirement means the requirement that an exchange visitor who is within the purview of section 212(e) of the Immigration and Nationality Act (substantially quoted in § 514.44) must reside and be physically present in the country of nationality or last legal permanent residence for an aggregate of at least two years following departure from the United States before the exchange visitor is eligible to apply for an immigrant visa or permanent residence, a nonimmigrant H visa as a temporary worker or trainee, or a nonimmigrant L visa as an intracompany transferee, or a nonimmigrant H or L visa as the spouse or minor child of a person who is a temporary worker or trainee or an intracompany transferee.

J visa means a non-immigrant visa issued pursuant to 8 U.S.C. 1101(a)(15)(J). A J–1 visa is issued to the exchange visitor. J–2 visas are issued to the exchange visitor's immediate family.

Non-specialty occupation means any occupation that is not a specialty occupation (q.v.). Non-specialty occupations range from unskilled occupations up to and including skilled occupations requiring at least two years training or experience.

On-the-job training means an individual's observation of and participation in given tasks demonstrated by experienced workers for the purpose of acquiring competency in such tasks.

Prescribed course of study means a non-degree academic program with a specific educational objective. Such course of study may include intensive English language training, classroom instruction, research projects, and/or academic training to the extent permitted in § 514.23.

Reciprocity means the participation of a United States citizen in an educational and cultural program in a foreign country in exchange for the participation of a foreign national in the Exchange Visitor Program. Where used herein, "reciprocity" shall be interpreted broadly; unless otherwise specified, reciprocity does not require a one-for-one exchange or that exchange visitors be engaged in the same activity. For example, exchange visitors coming to the United States for training in American banking practices and Americans going abroad to teach foreign nationals public administration would be considered a reciprocal exchange, when arranged or facilitated by the same sponsor.

Responsible officer means the employee or officer of a designated sponsor who has been listed with the Agency as assuming the responsibilities outlined in § 514.11. The designation of alternate responsible officers is

permitted and encouraged. The responsible officer and alternate responsible officers must be citizens of the United States or persons who have been lawfully admitted for permanent residence.

Specialty occupation means an occupation that requires theoretical and practical application of a body of highly specialized knowledge to perform fully in the stated field of endeavor. It requires completion of a specified course of education, where attainment of such knowledge or its equivalent is the minimum competency requirement recognized in the particular field of endeavor in the United States. Some examples of specialized fields of knowledge are public and business administration, agricultural research, architecture, engineering, computer and physical sciences, accounting, and print and broadcast journalism.

Sponsor means a legal entity designated by the Director of the United States Information Agency to conduct an exchange visitor program.

Third party means an entity cooperating with or assisting the sponsor in the conduct of the sponsor's program. Sponsors are required to take all reasonable steps to ensure that third parties know and comply with all applicable provisions of these regulations. Third party actions in the course of providing such assistance or cooperation shall be imputed to the sponsor in evaluating the sponsor's compliance with these regulations.

§ 514.3 Sponsor eligibility.

(a) Entities eligible to apply for designation as a sponsor of an exchange visitor program are:

(1) United States local, state and federal government agencies;

(2) International agencies or organizations of which the United States is a member and which have an office in the United States; or

(3) Reputable organizations which are "citizens of the United States," as that term is defined in § 514.2.

(b) To be eligible for designation as a sponsor, an entity is required to:

(1) Demonstrate, to the Agency's satisfaction, its ability to comply and remain in continual compliance with all provisions of part 514; and

(2) Meet at all times its financial obligations and responsibilities attendant to successful sponsorship of its exchange program.

§ 514.4 Categories of participant eligibility.

Sponsors may select foreign nationals to participate in their exchange visitor programs. Participation by foreign nationals in an exchange visitor program is limited to individuals who shall be engaged in the following activities in the United States:

(a) *Student.* An individual who is:

(1) Studying in the United States:

(i) Pursuing a full course of study at a secondary accredited educational institution;

(ii) Pursuing a full course of study leading to or culminating in the award of a U.S. degree from a post-secondary accredited educational institution; or

(iii) Engaged full-time in a prescribed course of study of up to 24 months duration conducted by:

(A) A post-secondary accredited educational institution; or

(B) An institute approved by or acceptable to the post-secondary accredited educational institution where the student is to be enrolled upon completion of the non-degree program;

(2) Engaged in academic training as permitted in § 514.23(f); or

(3) Engaged in English language training at:

(i) A post-secondary accredited educational institution, or

(ii) An institute approved by or acceptable to the post-secondary accredited educational institution where the college or university student is to be enrolled upon completion of the language training.

(b) *Short-term scholar.* A professor, research scholar, or person with similar education or accomplishments coming to the United States on a short-term visit for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar type of institutions.

(c) *Trainee.* An individual participating in a structured training program conducted by the selecting sponsor.

(d) *Teacher.* An individual teaching full-time in a primary or secondary accredited educational institution.

(e) *Professor.* An individual primarily teaching, lecturing, observing, or consulting a post-secondary accredited educational institutions, museums, libraries, or similar types of institutions. A professor may also conduct research, unless disallowed by the sponsor.

(f) *Research scholar.* An individual primarily conducting research, observing, or consulting in connection with a research project at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions. The research scholar may also teach or lecture, unless disallowed by the sponsor.

(g) *Specialist.* An individual who is an expert in a field of specialized knowledge or skill coming to the United States for obeserving, consulting, or demonstrating special skills.

(h) *Other person of similar description.* An individual of description similar to those set forth in paragraphs (a) through (g) coming to the United States, in a program designated by the Agency under this category, for the purpose of teaching, instructing or lecturing, study, observing, conducting research, consulting, demonstrating special skills, or receiving training. The programs designated by the Agency in this category consist of:

(1) *International visitor.* An individual who is a recognized or potential leader, selected by the Agency for consultation, observation, research, training, or demonstration of special skills in the United States.

(2) *Government visitor.* An individual who is an influential or distinguished person, selected by a U.S. federal, state, or local government agency for consultation, observation, training, or demonstration of special skills in the United States.

(3) *Camp counselor.* An individual selected to be a counselor in a summer camp in the United States who imparts skills to American campers and information about his or her country or culture.

§ 514.5 Application procedure.

(a) Any entity meeting the eligibility requirements set forth in § 514.3 may apply to the Agency for designation as a sponsor. Such application shall be made on Form IAP–37 ("Exchange Visitor Program Application") and filed with the Agency's Exchange Visitor Program Services.

(b) The application shall set forth, in detail, the applicant's proposed exchange program activity and shall demonstrate its prospective ability to comply with Exchange Visitor Program regulations.

(c) The application shall be signed by the chief executive officer of the applicant and must also provide:

(1) Evidence of legal status as a corporation, partnership, or other legal entity (e.g., charter, proof of incorporation, partnership agreement, as applicable) and current certificate of good standing;

(2) Evidence of financial responsibility as set forth at § 514.9(e);

(3) Evidence of accreditation if the applicant is a post-secondary educational institution;

(4) Evidence of licensure, if required by local, state, or federal law, to carry

out the activity for which it is be designated;

(5) Certification by the applicant (using the language set forth in appendix A) that it and its responsible officer and alternate responsible officers are citizens of the United States as defined at § 514.2; and

(6) Certification signed by the chief executive officer of the applicant that the responsible officer will be provided sufficient staff and resources to fulfill his/her duties and obligations on behalf of the sponsor.

(d) The Agency may request any additional information and documentation which it deems necessary to evaluate the application.

§514.6 Designation.

(a) Upon a favorable determination that the proposed exchange program meets all statutory and regulatory requirements, the Agency may, in its sole discretion, designate an entity meeting the eligibility requirements set forth in § 514.3 as an exchange visitor program sponsor.

(b) Designation shall confer upon the sponsor authority to engage in one or more activities specified in § 514.4. A sponsor shall not engage in activities not specifically authorized in its written designation.

(c) Designations are effective for a period of five years. In its discretion, the Agency may designate programs, including experimental programs, for less than five years.

(d) Designations are not transferable or assignable.

§514.7 Redesignation.

(a) Upon expiration of a given designation term, a sponsor may seek redesignation for another five-year term

(b) To apply for redesignation, a sponsor shall advise the Exchange Visitor Program Services by letter or by so indicating on the annual report.

(c) Request for redesignation shall be evaluated according to the criteria set forth at § 514.6(a) taking into account the sponsor's annual reports and other documents reflecting its record as an exchange visitor program sponsor.

(d) A sponsor seeking redesignation should notify the Agency, as set forth in (b) of this section, no less than four months prior to the expiration date of its designation. A sponsor seeking redesignation may continue to operate its program(s) until such time as the Agency notifies it of a decision to amend or terminate its designation.

§514.8 General program requirements.

(a) *Size of program.* Sponsors, other than Federal government agencies, shall have no less than five exchange visitors per calendar year. The Agency may in its discretion and for good cause shown reduce this requirement.

(b) *Minimum duration of program.* Sponsors, other than federal government agencies, shall provide each exchange visitor, except short-term scholars, with a minimum period of participation in the United States of three weeks.

(c) *Reciprocity.* In the conduct of their exchange programs, sponsors shall make a good faith effort to achieve the fullest possible reciprocity in the exchange of persons.

(d) *Cross-cultural activities.* Sponsors shall:

(1) Offer or make available to exchange visitors a variety or appropriate cross-cultural activities. The extent and types of the cross-cultural activities shall be determined by the needs and interests of the particular category of exchange visitor. Sponsors will be responsible to determine the appropriate type and number of cross-cultural programs for their exchange visitors. The Agency encourages sponsors to give their exchange visitors the broadest exposure to American society, culture and institutions; and

(2) Encourage exchange visitors to voluntarily participate in activities which are for the purpose of sharing the language, culture, or history of their home country with Americans, provided such activities do not delay the completion of the exchange visitors' programs.

§514.9 General obligations of sponsors.

(a) *Adherence to agency regulations.* Sponsors are required to adhere to all regulations set forth in this part.

(b) *Legal status.* Sponsors shall maintain legal status. A change in a sponsor's legal status (e.g. partnership to corporation) shall require application for designation of the new legal entity.

(c) *Accreditation and licensure.* Sponsors shall remain in compliance with all local, state. federal, and professional requirements necessary to carry out the activity for which they are designated, including accreditation and licensure, if applicable.

(d) *Representations and disclosures.* Sponsors shall:

(1) Provide accurate and complete information, to the extent lawfully permitted, to the Agency regarding their exchange visitor programs and exchange visitors;

(2) Provide only accurate information to the public when advertising their exchange visitor programs or responding to public inquiries;

(3) Provide informational materials to prospective exchange visitors which clearly explain the activities, costs, conditions, and restrictions of the program;

(4) Not use program numbers on any advertising materials or publications intended for general circulation; and

(5) Not represent that any program is endorsed, sponsored, or supported by the Agency or the United States Government, except for United States Government sponsors or exchange visitor programs financed directly by the United States Government to promote international educational exchanges. However, sponsors may represent that they are designated by the Agency as a sponsor of an exchange visitor program.

(e) *Financial responsibility.* (1) Sponsors shall maintain the financial capability to meet at all times their financial obligations and responsibilities attendant to successful sponsorship of their exchange visitor programs.

(2) The Agency may require non-government sponsors to provide evidence satisfactory to the Agency that funds necessary to fulfill all obligations and responsibilities attendant to sponsorship of exchange visitors are readily available and in the sponsor's control, including such supplementary or explanatory financial information as the Agency may deem appropriate such as, for example, audited financial statements.

(3) The Agency may require any non-government sponsor to secure a payment bond in favor of the Agency guaranteeing all financial obligations arising from the sponsorship of exchange visitors.

(f) *Staffing and support services.* Sponsors shall ensure:

(1) Adequate staffing and sufficient support services to administer their exchange visitor programs; and

(2) That their employees, officers, agents, and third parties involved in the administration of their exchange visitor programs are adequately qualified, appropriately trained, and comply with the Exchange Visitor Program regulations.

(g) *Appointment of responsible officer.* (1) The sponsor shall appoint a responsible officer and such alternate responsible officers as may be necessary to perform the duties set forth at § 514.11.

(2) The responsible officer and alternate responsible officers shall be employees or officers of the sponsor. The Agency may, however, in its discretion, authorize the appointment of an individual who is not an employee or officer to serve as an alternate

responsible officer, when approved by the sponsor.

(3) The Agency may limit the number of alternate responsible officers appointed by the sponsor.

§ 514.10 Program administration.

Sponsors are responsible for the effective administration of their exchange visitor programs. These responsibilities include:

(a) *Selection of exchange visitors.* Sponsors shall provide a system to screen and select prospective exchange visitors to ensure that they are eligible for program participation, and that:

(1) The program is suitable to the exchange visitor's background, needs, and experience; and

(2) The exchange visitor possesses sufficient proficiency in the English language to participate in his or her program.

(b) *Pre-arrival information.* Sponsors shall provide exchange visitors with pre-arrival materials including, but not limited to, information on:

(1) The purpose of the Exchange Visitor Program;

(2) Home-country physical presence requirement;

(3) Travel and entry into the United States;

(4) Housing;

(5) Fees payable to the sponsor;

(6) Other costs that the exchange visitor will likely incur (e.g., living expenses) while in the United States;

(7) Health care and insurance; and

(8) Other information which will assist exchange visitors to prepare for their stay in the United States.

(c) *Orientation.* Sponsors shall offer appropriate orientation for all exchange visitors. Sponsors are encouraged to provide orientation for the exchange visitor's immediate family, especially those who are expected to be in the United States for more than one year. Orientation shall include, but not be limited to, information concerning:

(1) Life and customs in the United States;

(2) Local community resources (e.g., public transportation, medical centers, schools, libraries, recreation centers, and banks), to the extent possible;

(3) Available health care, emergency assistance, and insurance coverage;

(4) A description of the program in which the exchange visitor is participating;

(5) Rules that the exchange visitors are required to follow under the sponsor's program;

(6) Address of the sponsor and the name and telephone number of the responsible officer; and

(7) Address and telephone number of the Exchange Visitor Program Services of the Agency and a copy of the Exchange Visitor Program brochure outlining the regulations relevant to the exchange visitors.

(d) *Form IAP–66.* Sponsors shall ensure that only the responsible officer or alternate responsible officers issue Forms IAP–66;

(e) *Monitoring of exchange visitors.* Sponsors shall monitor, through employees, officers, agents, or third parties, the exchange visitors participating in their programs. Sponsors shall:

(1) Ensure that the activity in which the exchange visitor is engaged is consistent with the category and activity listed on the exchange visitor's Form IAP–66;

(2) Monitor the progress and welfare of the exchange visitor to the extent appropriate for the category; and

(3) Require the exchange visitor to keep the sponsor apprised of his or her address and telephone number, and maintain such information.

(f) *Requests by the agency.* Sponsors shall, to the extent lawfully permitted, furnish to the Agency within a reasonable time all information, reports, documents, books, files, and other records requested by the Agency on all matters related to their exchange visitor programs.

(g) *Inquiries and investigations.* Sponsors shall cooperate with any inquiry or investigation that may be undertaken by the Agency.

(h) *Retention of records.* Sponsors shall retain all records related to their exchange visitor program and exchange visitors for a minimum of three years.

§ 514.11 Duties of responsible officers.

Responsible officers shall train and supervise alternate responsible officers Responsible officers and alternate responsible officers shall:

(a) *Knowledge of regulations and codebook.* Be thoroughly familiar with the Exchange Visitor Program regulations and the Agency's current Codebook and Instructions for Responsible Officers.

(b) *Advisement and assistance.* Ensure that the exchange visitor obtains sufficient advice and assistance to facilitate the successful completion of the exchange visitor's program.

(c) *Communications.* Conduct the official communications relating to the exchange visitor program with the Agency, the United States Immigration and Naturalization Service, or the United States Department of State. Reference to the sponsor's program number shall be made on any correspondence with the Agency.

(d) *Custody of the Form IAP–66.* Act as custodian for the control, issuance, and distribution of Forms IAP–66 as set forth in § 514.12.

§ 514.12 Control of Forms IAP–66.

Forms IAP–66 shall be used only for authorized purposes. To maintain adequate control of Forms IAP–66, responsible officers or alternate responsible officers shall:

(a) *Requests.* Submit written requests to the Agency for a one-year supply of Forms IAP–66, and allow four to six weeks for the distribution of these forms. The Agency has the discretion to determine the number of Forms IAP–66 to be sent to a sponsor. The Agency will take into consideration the current size of the program and the projected expansion of the program in the coming 12 months. If requested, the Agency will consult with the responsible officer prior to determining the number of Forms IAP–66 to be sent to the sponsor. Additional forms may be requested later in the year if needed by the sponsor.

(b) *Verification.* Prior to issuing Form IAP–66, verify that the exchange visitor:

(1) Is eligible, qualified, and accepted for the program in which he or she will be participating;

(2) Possesses adequate financial resources to complete his or her program; and

(3) Possesses adequate financial resources to support any accompanying dependents.

(c) *Issuance of Form IAP–66.* Issue the Form IAP–66 only so as to:

(1) Facilitate the entry of a new participant of the exchange visitor program;

(2) Extend the stay of an exchange visitor;

(3) Facilitate program transfer;

(4) Replace a lost or stolen Form IAP–66;

(5) Facilitate entry of an exchange visitor's alien spouse or minor unmarried children into the United States separately;

(6) Facilitate re-entry of an exchange visitor who is traveling outside the United States during the program;

(7) Facilitate a change of category when permitted by the Agency; and

(8) Update information when significant changes take place in regard to the exchange visitor's program, such as a substantial change in funding or in the location where the program will take place.

(d) *Safeguards.* (1) Store Forms IAP–66 securely to prevent unauthorized use;

(2) Prohibit transfer of any blank Form IAP–66 to another sponsor or other person unless authorized in writing (by letter or facsimile) by the Agency to do so;

(3) Notify the Agency promptly by telephone (confirmed promptly in writing) or facsimile of the document number of any completed Form IAP–66 that is presumed lost or stolen or any blank Form IAP–66 lost or stolen; and

(4) Forward the completed Form IAP–66 only to an exchange visitor, either directly or via an employee, officer, or agent of the sponsor, or to an individual designated by the exchange visitor.

(e) *Accounting.* (1) Maintain a record of all Forms IAP–66 received and/or issued by the sponsor;

(2) Destroy damaged and unusable Form IAP–66 on the sponsor's premises after making a record of such forms (e.g. forms with errors or forms damaged by a printer); and

(3) Request exchange visitors and prospective exchange visitors to return any unused Form IAP–66 sent to them and make a record of Forms IAP–66 which are returned to the sponsor and destroy them on the sponsor's premises.

§ 514.13 Notification requirements.

(a) *Change of circumstances.* Sponsors shall notify the Agency promptly in writing of any of the following circumstances:

(1) Change of its address, telephone, or facsimile number;

(2) Change in the composition of the sponsoring organization which affects its citizenship as defined by § 514.2;

(3) Change of the responsible officer or alternate responsible officers;

(4) A major change of ownership or control of the sponsor's organization;

(5) Change in financial circumstances which may render the sponsor unable to comply with its obligations as set forth in § 512.9(e);

(6) Loss of licensure or accreditation;

(7) Loss or theft of Forms IAP–66 as specified at § 514.12(d)(3);

(8) Litigation related to the sponsor's exchange visitor program, when the sponsor is a party; and

(9) Termination of its exchange visitor program.

(b) *Serious problem or controversy.* Sponsors shall inform the Agency promptly by telephone (confirmed promptly in writing) or facsimile of any serious problem or controversy which could be expected to bring the Agency or the sponsor's exchange visitor program into notoriety or disrepute.

(c) *Program status of exchange visitor.* Sponsors shall notify the Agency in writing when:

(1) The exchange visitor has withdrawn from or completed a program thirty (30) or more days prior to the ending date on his or her Form IAP–66; or

(2) The exchange visitor has been terminated from his or her program.

§ 514.14 Insurance.

(a) Sponsors shall require each exchange visitor to have insurance in effect which covers the exchange visitor for sickness or accident during the period of time that an exchange visitor participates in the sponsor's exchange visitor program. Minimum coverage shall provide:

(1) Medical benefits of at least $50,000 per accident or illness;

(2) Repatriation of remains in the amount of $7,500;

(3) Expenses associated with the medical evacuation of the exchange visitor to his or her home country in the amount of $10,000; and

(4) A deductible not to exceed $500 per accident or illness.

(b) An insurance policy secured to fulfill the requirements of this section:

(1) May require a waiting period for pre-existing conditions which is reasonable as determined by current industry standards;

(2) May include provision for co-insurance under the terms of which the exchange visitor may be required to pay up to 25% of the covered benefits per accident or illness; and

(3) Shall not unreasonably exclude coverage for perils inherent to the activities of the exchange program in which the exchange visitor participates.

(c) Any insurance policy secured to fulfill the above requirements must be underwritten by an insurance corporation having an A.M. Best rating of "A-" or above, an Insurance Solvency International, Ltd. (ISI) rating of "A–i" or above, a Standard & Poor's Claims-paying Ability rating of "A–" or above, a Weiss Research, Inc. rating of B+ or above, or such other rating service as the Agency may from time to time specify. Insurance coverage backed by the full faith and credit of the government of the exchange visitor's home country shall be deemed to meet this requirement.

(d) Federal, state or local government agencies, state colleges and universities, and public community colleges may, if permitted by law, self-insure any or all of the above-required insurance coverage.

(e) At the request of a non-governmental sponsor of an exchange visitor program, and upon a showing that such sponsor has funds readily available and under its control sufficient to meet the requirements of this section, the Agency may permit the sponsor to self-insure or to accept full financial responsibility for such requirements.

(f) The Agency, in its sole discretion, may condition its approval of self-insurance or the acceptance of full financial responsibility by the non-governmental sponsor by requiring such sponsor to secure a payment bond in favor of the Agency guaranteeing the sponsor's obligations hereunder.

(g) An accompanying spouse or dependent of an exchange visitor is required to be covered by insurance in the amounts set forth in § 514.14(a) above. Sponsors shall inform exchange visitors of this requirement, in writing, in advance of the exchange visitor's arrival in the United States.

(h) An exchange visitor who willfully fails to maintain the insurance coverage set forth above while a participant in an exchange visitor program or who makes a material misrepresentation to the sponsor concerning such coverage shall be deemed to be in violation of these regulations and shall be subject to termination as a participant.

(i) A sponsor shall terminate an exchange visitor's participation in its program if the sponsor determines that the exchange visitor or any accompanying spouse or dependent willfully fails to remain in compliance with this section.

§ 514.15 Annual reports.

Sponsors shall submit an annual report to the Agency. An illustrative form of such report may be found at Appendix D to this part. Such report shall be filed on an academic or calendar year basis, as directed by the Agency, and shall contain the following:

(a) *Program report and evaluation.* A brief summary of the activities in which exchange visitors were engaged, including an evaluation of program effectiveness;

(b) *Reciprocity.* A description of the nature and extent of reciprocity occurring in the sponsor's exchange visitor program during the reporting year;

(c) *Cross-cultural activities.* A summary of the cross-cultural activities provided for its exchange visitors during the reporting year;

(d) *Proof of insurance.* Certification of compliance with insurance coverage requirements set forth in § 514.14.

(e) *Form IAP–66 usage.* A report of Form IAP–66 usage during the reporting year setting forth the following information:

(1) The total number of blank Forms IAP–66 received from the Agency during the reporting year;

(2) The total number of Forms IAP–66 voided or destroyed by the sponsor during the reporting year and the document numbers of such forms;

(3) The total number of Forms IAP–66 issued to potential exchange visitors that were returned to the sponsor or not used for entry into the United States; and

(4) The total number and document identification number sequence of all blank Forms IAP–66 in the possession of the sponsor on the date of the report.

(f) *Program participation.* A numerical count, by category, of all exchange visitors participating in the sponsor's program for the reporting year.

(g) *Redesignation.* Sponsors may indicate their desire for redesignation, pursuant to § 514.7, by marking the appropriate box on their annual report.

§ 514.16 Employment.

(a) An exchange visitor may receive compensation from the sponsor or the sponsor's appropriate designee for employment when such activities are part of the exchange visitor's program.

(b) An exchange visitor who engages in unauthorized employment shall be deemed to be in violation of his or her program status and is subject to termination as a participant in an exchange visitor program.

(c) The acceptance of employment by an accompanying spouse or minor child of an exchange visitor is governed by Immigration and Naturalization Service regulations.

§ 514.17 Fees and charges. [Reserved]

Subpart B—Specific Program Provisions

§ 514.20 Professors and research scholars.

(a) *Introduction.* These regulations govern professors and research scholars, except:

(1) Alien physicians in graduate medical education or training, who are governed by regulations set forth at § 514.27; and

(2) Short-term scholars, who are governed by regulations set forth at § 514.21.

(b) *Purpose.* A primary purpose of the Exchange Visitor Program is to foster the exchange of ideas between Americans and foreign nationals and to stimulate international collaborative teaching and research efforts. The exchange of professors and research scholars promotes interchange, mutual enrichment, and linkages between research and educational institutions in the United States and foreign countries. It does so by providing foreign professors and research scholars the opportunity to engage in research, teaching, and lecturing with their American colleagues, to participate actively in cross-cultural activities with Americans, and ultimately to share with their fellow citizens their experiences and increased knowledge about the United States and their substantive fields.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in research, teaching, lecturing, observing, or consulting at research institutions, corporate research facilities, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions in the United States.

(d) *Visitor eligibility.* An individual participating in a program which furthers the objectives under § 514.20(b) and whose activities are compatible with said objectives shall be eligible to participate in an exchange visitor program as a professor or research scholar. The exchange visitor's appointment to a position shall be temporary, even if the position itself is permanent. The individual shall not be a candidate for a tenure-track position.

(e) *Insurance of Form IAP–66.* The Form IAP–66 shall be issued only after the professor or research scholar has been accepted by the institution(s) where he or she will participate in an exchange visitor program.

(f) *Location of the exchange.* Professors or research scholars shall conduct their exchange activity at the location(s) listed on the Form IAP–66, which could be either at the location of the exchange visitor sponsor or the site of a third party facilitating the exchange. An exchange visitor may also engage in activities at locations not listed on the Form IAP–66 if such activities constitute occasional lectures or consultations as permitted by § 514.20(g).

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j), and the following criteria and procedures shall be satisfied:

(1) *Criteria.* The occasional lectures or short-term consultations shall:

(i) Be directly related to the objectives of the exchange visitor's program;

(ii) Be incidental to the exchange visitor's primary program activities; and

(iii) Not delay the completion date of the visitor's program.

(2) *Procedures.*

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

(A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and

(B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.

(ii) The responsible officer shall review the letters required in § 514.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in § 514.20(g)(1).

(h) *Category.* At the discretion of the responsible officer, professors may freely engage in research and research scholars may freely engage in teaching and lecturing, unless disallowed by the sponsor. Because these activities are so intertwined, such a change of activity will not be considered a change of category necessitating a formal approval by the responsible officer or approval by the Agency. Any Form IAP–66 issued to the exchange visitor should reflect the current category of the exchange visitor, either professor or research scholar.

(i) *Duration of participation.* The exchange professor and research scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed three years. A change between the categories of professor and research scholar shall not extend the exchange visitor's period of participation beyond the permitted three-year maximum duration, unless approved by the Agency.

(j) *Extension of program.* Professors and research scholars may be considered for program extensions for up to 36 months as follows:

(1) *Six-month extension.* The responsible officer has the discretion to approve an extension upon a showing of good cause of up to six months for professors or research scholars beyond the three-year duration of participation permitted under § 514.20(i). The purpose of such an extension is to provide the professor or research scholar the necessary time to complete his or her teaching and research responsibilities. The responsible officer shall notify the Agency as required in § 514.43(c) when authorizing such an extension.

(2) *Additional extension.* The Agency, in its discretion, may approve an extension for a professor or research

scholar for good cause. Applications to the Agency for such extension may be filed any time, but should be filed no later than 45 days before the expiration of the exchange visitor's authorized stay. The application shall be in writing and shall:

(i) state the period of time the sponsor is requesting the extension for the exchange visitor; and

(ii) Include a letter from the department head or supervisor of the exchange visitor:

(A) Indicating the expected date of completion of the exchange program; and

(B) Providing a description of the circumstances which warrant such an extension.

(3) *Status of exchange visitor.* (i) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2) is considered to be in valid program status during pendency of the application.

(ii) An exchange visitor who applies for an extension pursuant to § 514.20(j)(2), and who subsequently receives Agency notice that the request has been denied, is considered to be in valid program status for an additional period of 30 days from the date of such notice or for a period of 30 days from expiration of the visitor's Form IAP–66, whichever is later.

§ 514.20 Short-term scholars.

(a) *Introduction.* These regulations govern scholars coming to the United States for a period of up to four months to lecture, observe, consult, and to participate in seminars, workshops, conferences, study tours, professional meetings, or similar types of educational and professional activities.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American scholars. It does so by providing foreign scholars the opportunity to exchange ideas with their American colleagues, participate in educational and professional programs, confer on common problems and projects, and promote professional relationships and communications.

(c) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to engage in short-term visits for the purpose of lecturing, observing, consulting, training, or demonstrating special skills at research institutions, museums, libraries, post-secondary accredited educational institutions, or similar types of institutions.

(d) *Visitor eligibility.* A person participating in the Exchange Visitor Program under this section shall satisfy the definition of a short-term scholar as set forth in § 514.4.

(e) *Cross-cultural activities and orientation.* Due to the nature of such exchanges, sponsors of programs for short-term scholars shall be exempted from the requirements of providing cross-cultural activities and orientation as set forth in § 514.8(d) and § 514.10(c). However, sponsors are encouraged to provide such programs for short-term scholars whenever appropriate.

(f) *Location of the exchange.* The short-term scholar shall participate in the Exchange Visitor Program at the conferences, workshops, seminars, or other events or activities stated on his or her Form IAP–66.

(g) *Duration of participation.* The short-term scholar shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which time shall not exceed four months. Programs under this section are exempted from § 514.8(b) governing the minimum duration of a program. Extensions beyond the duration of participation are not permitted under this category.

§ 514.22 Trainees.

(a) *Introduction.* These regulations govern all exchange visitor programs under which foreign nationals are provided with opportunities for receiving training in the United States. Regulations dealing with training opportunities which may, under certain conditions, be authorized for foreign students who are studying at post-secondary accredited educational institutions in the United States are found at § 514.23. Regulations governing medical trainees are found at § 514.27.

(b) *Purpose of training.* The primary objectives of training are to enhance the exchange visitor's skills in his or her specialty or non-specialty occupation through participation in a structured training program and to improve the participant's knowledge of American techniques, methodologies, or expertise within the individual's field of endeavor. Such training programs are also designed to enable the exchange visitor trainee to understand better American culture and society and to enhance American knowledge of foreign cultures and skills by providing the opportunity for an open interchange of ideas between the exchange visitor trainees and their American counterparts. Use of the Exchange Visitor Program for ordinary employment or work purposes is strictly prohibited. For this reason the regulations in this section are designed to distinguish between receiving training, which is permitted, and gaining experience, which is not permitted unless as a component of a *bona fide* training program.

(c) *Designation of training programs.* (1) The Agency groups occupations into specialty, non-specialty, or unskilled occupational categories. The Agency will designate training programs in specialty and non-specialty occupations. Training programs in unskilled occupations or occupations in other categories which the Agency may from time to time identify by publication in the **Federal Register** will not be designated. For purposes of these regulations, the Agency considers the occupations listed in Appendix E to part 514 to be "unskilled occupations."

(2) For purposes of designation, the Agency will designate specialty and skilled non-specialty occupational training programs in any of the following occupational categories:

(i) Arts and Culture;
(ii) Information Media and Communications;
(iii) Education, Social Sciences, Library Science, Counseling and Social Services;
(iv) Management, Business, Commerce and Finance;
(v) Health Related Occupations;
(vi) Aviation;
(vii) The Sciences, Engineering, Architecture, Mathematics, and Industrial Occupations;
(viii) Construction and Building Trades;
(ix) Agriculture, Forestry and Fishing;
(x) Public Administration and Law;
(xi) Other (Specify).

(3) Sponsors may apply for designation for training programs in any combination of specialty and/or non-specialty occupations. Once designated, the sponsor may provide training in any occupation falling within the designated category, if not otherwise prohibited from doing so. Sponsors shall provide training to exchange visitors only in the category or categories for which they have obtained Agency designation.

(d) *Obligations of training program sponsors.* (1) Sponsors designated by the Agency to provide training to foreign exchange visitors shall:

(i) Ensure that individuals and/or entities conducting training possess and maintain the demonstrable competence to provide training in the subjects offered to each exchange visitor.

(ii) Ensure that skills, knowledge, and competence are imparted to the trainee through a structured program of activities which are supportive and appropriate to the training experience. These may include, for example, classroom training, seminars, rotation through several departments, on-the-job

training, and attendance at conferences, as appropriate.

(iii) Develop, prior to the start of training, a detailed training plan geared to defined objectives for each trainee or group of similarly-situated trainees.

(iv) Ensure that continuous supervision and periodic of evaluation each trainee is provided.

(v) Ensure that sufficient plant, equipment, and trained personnel are available to provide the training specified.

(2) Sponsors designated by the Agency to provide training to foreign exchange visitors shall not:

(i) Provide training in unskilled occupations; or

(ii) Place trainees in positions which are filled or would be filled by full-time or part-time employees.

(e) *Use of third parties.* (1) The sponsor may utilize the services of third parties in the conduct of the designated training program. If a third party is utilized, the sponsor and the third party shall execute a written agreement which delineates the respective obligations and duties of the parties and specifically recites the third party's obligation to act in accordance with these regulations. The sponsor shall maintain a copy of such agreement in its files.

(2) The sponsor's use of a third party in the conduct of a designated training program does not relieve the sponsor of its obligation to comply, and to ensure the third party's compliance, with all applicable regulations. Any failure on the part of the third party to comply with all applicable regulations will be imputed to the sponsor.

(f) *Application for designation of training programs.* (1) An applicant for designation as an exchange visitor training program shall demonstrate to the Agency its ability to comply with both the General Provisions set forth in subpart A, and the obligations of training sponsors set forth in § 514.22(d).

(2)(i) An applicant shall provide the Agency with documentary evidence of its competence to provide the training for which designation is sought.

(ii) If third parties are to be used to conduct one or more aspects of the activities for which designation is sought, the applicant shall provide the Agency with forms and procedures which will be used by the sponsor to ensure third party compliance with all applicable regulations and fulfillment of the goals and purposes of the sponsor's exchange visitor program.

(iii) If the applicant intends to utilize the services of third parties to conduct the training, a copy of an executed third-party agreement or, if one has not yet been executed, an illustrative copy of the type of agreement the applicant intends to execute with third parties shall be submitted with the application.

(3) If the training program is accredited in accordance with § 514.22(n), the applicant shall include a copy of the accreditation in its application.

(4) The application shall include a certification that:

(i) Sufficient physical plant, equipment, and trained personnel will be dedicated to provide the training specified;

(ii) The training program is not designed to recruit and train aliens for employment in the United States;

(iii) Trainees will not be placed in positions which displace full-time or part-time employees.

(5) As to each occupational division for which the applicant seeks designation, the applicant shall indicate whether it intends to provide training in specialty or non-specialty occupations, or both.

(6) In order to meet the requirements of this subsection and to evidence the competence of the applicant and/or third parties conducting one or more aspects of the applicant's exchange visitor program to provide training, the applicant for designation may submit any one of the following types of training plans for each division for which designation is sought;

(i) If the applicant has already designed a structured training plan to use in the proposed exchange visitor program, a copy of such training plan may be submitted with the application;

(ii) If the applicant has not yet prepared a new training plan, but has been engaged previously in the type of training, directly or through third parties, for which designation is being sought, the applicant may demonstrate its capability to conduct such training by submitting a copy of a previously used training plan;

(iii) If the applicant proposes to create individualized training plans for as yet unidentified trainees, then the applicant may submit a hypothetical training plan which illustrates the training the applicant proposes to provide, directly or through third parties.

(g) *The training plan.* Each training plan required to be prepared for a trainee or group of trainees pursuant to § 514.22(d)(1)(iii) above, shall include, at a minimum,

(1) a statement of the objectives of the training;

(2) the skills to be imparted to the trainee;

(3) a copy of the training syllabus or chronology;

(4) a justification for the utilization of on-the-job training to achieve stated course competencies; and

(5) a description of how the trainee will be supervised and evaluated.

(h) *Agency consultation with experts.* The Agency may consult experts whenever its examination of a training plan or its evaluation of application for designation indicates the need for such expertise in making an evaluation.

(i) *Records.* Sponsors shall retain for three years all records pertaining to individual trainees, training plans, trainee evaluations, and agreements with third parties. Such records shall be made available to the Agency upon the Agency's request.

(j) *Selection of trainees.* In addition to meeting the requirements of § 514.10(a), trainees shall be fully qualified to participate successfully in a structured training program at a level appropriate for the individual trainee's career development. However, such training shall not be duplicative of the trainee's prior training and experience.

(k) *Duration of participation.* The duration of participation shall correspond to the length of the program set forth in the sponsor's designation. The maximum period of participation in the Exchange Visitor Program for a trainee shall not exceed 18 months total.

(l) *Financial and program disclosure.* Sponsors shall provide trainees, prior to their arrival in the United States, with:

(1) A written statement which clearly states the stipend, if any, to be paid to the trainee;

(2) The costs and fees for which the trainee will be obligated;

(3) An estimate of living expenses during the duration of the trainee's stay; and

(4) A summary of the training program which recites the training objectives and all significant components of the program.

(m) *Evaluation.* In order to ensure the quality of the training program, the sponsor shall develop procedures for the ongoing evaluation of each training segment. Such evaluation shall include, as a minimum, midpoint and concluding evaluation reports from the trainee and his or her immediate supervisor, signed by both parties. For training courses of less than three months duration, evaluation reports are required upon conclusion of the training program.

(n) *Flight training.* (1) The Agency will consider the application for designation of a flight training program if such program complies with the above regulations, and, additionally,

(i) Is, at the time of making said application, a Federal Aviation

Administration certificated pilot school pursuant to title 14, Code of Federal Regulations, part 141; and

(ii) At the time of making said application is accredited as a flight training program by an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or is accredited as a flight training program by a member of the Council on Postsecondary Accreditation; or

(iii) At the time of making said application has formally commenced the accreditation process with an accrediting agency which is listed in the current edition of the United States Department of Education's "Nationally Recognized Accrediting Agencies and Associations," or with a member of the Council on Postsecondary Accreditation. If the application for designation is approved, such designation shall be for up to twelve-months duration, with continued designation thereafter conditioned upon completion of the accreditation process.

(2) Notwithstanding the provisions of § 514.22(k), *supra*, the maximum period of participation for exchange visitors in designated flight training programs shall not exceed 24 months total. Any request for extension of time in excess of that authorized under this subsection shall be made in accordance with § 514.43, *infra*.

(3) For purposes of meeting the evaluation requirements set forth in § 514.22(m), sponsors and/or third parties conducting the training may utilize the same training records as are required by the Federal Aviation Administration to be maintained pursuant to 14 CFR 141.101.

§ 514.23 College and university students.

(a) *Purpose.* Programs under § 514.23 provide foreign students the opportunity to participate in a designated exchange program while studying at a degree-granting post-secondary accredited educational institution. Exchange visitors under this category may participate in degree and non-degree programs. Such exchanges are intended to promote mutual understanding by fostering the exchange of ideas between foreign students and their American counterparts.

(b) *Designation.* The Agency may, in its sole discretion, designate *bona fide* programs which offer foreign nationals the opportunity to study in the United States at post-secondary accredited educational institutions.

(c) *Selection criteria.* Sponsors select the college and university students who participate in their exchange visitor programs. Sponsors shall secure sufficient background information on the students to ensure that they have the academic credentials required for their program. Students are eligible for the Exchange Visitor Program if at any time during their college studies in the United States:

(1) They or their program are financed directly or indirectly by:

(i) The United States Government;

(ii) The government of the student's home country; or

(iii) An international organization of which the United States is a member by treaty or statute;

(2) The programs are carried out pursuant to an agreement between the United States Government and a foreign government;

(3) The program are carried out pursuant to written agreement between:

(i) American and foreign educational institutions;

(ii) An American educational institution and a foreign government; or

(iii) A state or local government in the United States and a foreign government; or

(4) The exchange visitors are supported substantially by funding from any source other than personal or family funds.

(d) *Admissions requirement.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that the exchange visitor student has been admitted to the post-secondary accredited educational institution(s) listed on the Form IAP–66 before issuing the form.

(e) *Full course of study requirement.* Exchange visitor students shall pursue a full course of study at a post-secondary accredited educational institution in the United States as defined in § 514.2, except under the following circumstances:

(1) *Vacation.* During official school breaks and summer vacations if the student is eligible and intends to register for the next term. A student attending a school on a quarter or trimester calendar may be permitted to take the annual vacation during any one of the quarters or trimesters instead of during the summer.

(2) *Medical problem.* If the student is compelled to reduce or interrupt a full course of study due to an illness or medical condition and the student presents to the responsible officer a written statement from a physician requiring or recommending an interruption or reduction in studies.

(3) *Bona fide academic reason.* If the student is compelled to pursue less than a full course of study for a term and the student presents to the responsible officer a written statement from the academic dean or advisor recommending the student to reduce his or her academic load to less than a full course of study due to an academic reason.

(4) *Non-degree program.* If the student is engaged full time in a prescribed course of study in a non-degree program of up to 24 months duration conducted by a post-secondary accredited educational institution.

(5) *Academic training.* If the student is participating in authorized academic training in accordance with § 514.23(f).

(6) *Final term.* If the student needs less than a full course of study to complete the academic requirements in his or her final term.

(f) *Academic training.* (1) A student may participate in academic training programs during his or her studies, without wages or other remuneration, with the approval of the academic dean or advisor and the responsible officer.

(2) A student may be authorized to participate in academic training programs for wages or other remuneration:

(i) during his or her studies; or

(ii) commencing not later than thirty (30) days after completion of his or her studies, if the criteria, time limitations, procedures, and evaluations listed below in paragraphs (f) (3) to (6) are satisfied:

(3) *Criteria.*

(i) The student is primarily in the United States to study rather than engage in academic training;

(ii) The student is participating in academic training that is directly related to his or her major field of study at the post-secondary accredited educational institution listed on his or her Form IAP–66;

(iii) The student is in good academic standing with the post-secondary accredited educational institution; and

(iv) The student receives written approval in advance from the responsible officer for the duration and type of academic training.

(4) *Time limitations.* The exchange visitor is authorized to participate in academic training for the length of time necessary to complete the goals and objectives of the training, provided that the amount of time for academic training:

(i) Is approved by the academic dean or advisor and approved by the responsible officer;

(ii) For undergraduate and pre-doctoral training, does not exceed eighteen (18) months, inclusive of any prior academic training in the United States, or the period of full course of

study in the United States, whichever is less; except, additional time for academic training is allowed to the extent necessary for the exchange visitor to satisfy the mandatory requirements of his or her degree program in the United States;

(iii) For post-doctoral training, does not exceed a total of thirty-six (36) months, inclusive of any prior academic training in the United States as an exchange visitor, or the period of the full course of study in the United States, whichever is less. A new Form IAP–66 shall be issued for each eighteen (18) month period.

(5) *Procedures.* To obtain authorization to engage in academic training:

(i) The exchange visitor shall present to the responsible officer a letter of recommendation from the student's academic dean or advisor setting forth:

(A) The goals and objectives of the specific training program;

(B) A description of the training program, including its location, the name and address of the training supervisor, number of hours per week, and dates of the training;

(C) How the training relates to the student's major field of study; and

(D) Why it is an integral or critical part of the academic program of the exchange visitor student.

(ii) The responsible officer shall:

(A) Determine if and to what extent the student has previously participated in academic training as an exchange visitor student, in order to ensure the student does not exceed the period permitted in § 514.23(f);

(B) Review the letter required in paragraph (f)(5)(i) of this section; and

(C) Make a written determination of whether the academic training currently being requested is warranted and the criteria and time limitations set forth in § 514.23(f) (3) and (4) are satisfied.

(6) *Evaluation requirements.* The sponsor shall evaluate the effectiveness and appropriateness of the academic training in achieving the stated goals and objectives in order to ensure the quality of the academic training program.

(g) *Student employment.* Exchange visitor students may engage in part-time employment when the following criteria and conditions are satisfied.

(1) The student employment:

(i) Is pursuant to the terms of a scholarship, fellowship, or assistantship;

(ii) Occurs on the premises of the post-secondary accredited educational institution the visitor is authorized to attend; or

(iii) Occurs off-campus when necessary because of serious, urgent, and unforeseen economic circumstances which have arisen since acquiring exchange visitor status.

(2) Exchange visitor students may engage in employment as provided in paragraph (g)(1) of this section if the:

(i) Student is in good academic standing at the post-secondary accredited educational institution;

(ii) Student continues to engage in a full course of study, except for official school breaks and the student's annual vacation;

(iii) Employment totals no more than 20 hours per week, except during official school breaks and the student's annual vacation; and

(iv) The responsible officer has approved the specific employment in advance and in writing. Such approval may be valid up to twelve months, but is automatically withdrawn if the student's program is terminated.

(h) *Duration of participation*—(1) *Degree students.* Exchange visitor students who are in degree programs shall be authorized to participate in the Exchange Visitor Program as long as they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP–66 and are:

(A) Pursuing a full course of study as set forth in § 514.23(e), and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

(2) *Non-degree students.* Exchange visitors who are non-degree students shall be authorized to participate in the Exchange Visitor Program for up to 24 months, if they are either:

(i) Studying at the post-secondary accredited educational institution listed on their Form IAP–66 and are:

(A) Participating full-time in a prescribed course of study; and

(B) Maintaining satisfactory advancement towards the completion of their academic program; or

(ii) Participating in an authorized academic training program as permitted in § 514.23(f).

§ 514.24 Teachers.

(a) *Purpose.* These regulations govern exchange visitors who teach full-time in primary and secondary accredited educational institutions. Programs under § 514.24 promote the interchange of American and foreign teachers in public and private schools and the enhancement of mutual understanding between people of the United States and other countries. They do so by providing foreign teachers opportunities to teach in primary and secondary accredited educational institutions in the United States, to participate actively in cross-cultural activities with Americans in schools and communities, and to return home ultimately to share their experiences and their increased knowledge of the United States. Such exchanges enable visitors to understand better American culture, society, and teaching practices at the primary and secondary levels, and enhance American knowledge of foreign cultures, customs, and teaching approaches.

(b) *Designation.* The Agency may, in its discretion, designate *bona fide* programs satisfying the objectives in section (a) above as exchange visitor programs in the teacher category.

(c) *Visitor eligibility.* A foreign national shall be eligible to participate in an exchange visitor program as a full-time teacher if the individual:

(1) Meets the qualifications for teaching in primary or secondary schools in his or her country of nationality or last legal residence;

(2) Satisfies the standards of the U.S. state in which he or she will teach;

(3) Is of good reputation and character;

(4) Seeks to come to the United States for the purpose of full-time teaching at a primary or secondary accredited educational institution in the United States; and

(5) Has a minimum of three years of teaching or related professional experience.

(d) *Visitor selection.* Sponsors shall adequately screen teachers prior to accepting them for the program. Such screening, in addition to the requirements of § 514.10(a), shall include:

(1) Evaluating the qualifications of the foreign applicants to determine whether the criteria set forth in § 514.24(c) are satisfied; and

(2) Securing references from colleagues and current or former employers, attesting to the teachers' good reputation, character and teaching skills.

(e) *Teaching position.* Prior to the issuance of the Form IAP–66, the exchange visitor shall receive a written offer and accept in writing of a teaching position from the primary or secondary accredited educational institution in which he or she is to teach. Such position shall be in compliance with any applicable collective bargaining agreement, where one exists. The exchange visitor's appointment to a position at a primary or secondary accredited educational institution shall

be temporary, even if the teaching position is permanent.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the teacher, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program, including a written statement of the teaching requirements and related professional obligations; and

(3) A written statement which clearly states the compensation, if any, to be paid to the teacher and any other financial arrangements in regards to the exchange visitor program.

(g) *Location of the exchange.* The teacher shall participate in an exchange visitor program at the primary or secondary accredited educational institution(s) listed on his or her Form IAP–66 and at locations where the institution(s) are involved in official school activities (e.g., school field trips and teacher training programs).

(h) *Duration of participation.* The teacher shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed three years.

§ 514.25 Secondary school students.

(a) *Introduction.* These regulations govern Agency designated exchange visitor programs under which foreign national secondary students are afforded the opportunity for up to one year of study in a United States public or private secondary school, while living with an American host family or residing at an accredited U.S. boarding school.

(b) *Program sponsor eligibility.* Eligibility for designation as a secondary school student exchange program sponsor shall be limited to;

(1) Organizations with tax-exempt status as conferred by the Internal Revenue Service pursuant to section 501(c)(3); and

(2) Organizations which are United States citizens as such terms is defined § 514.2.

(c) *Program eligibility.* Secondary school students exchange programs designated by the Agency shall:

(1) Require all participants to pursue a full course of study at an accredited educational institution as such terms are defined in this Part of not less than one academic semester (or quarter equivalency) nor more than two academic semesters (or quarter equivalency) duration; and

(2) Be conducted on an academic calendar year basis provided, however, participants may begin in the second semester of an academic year if specifically permitted to do so, in writing, by the school in which the exchange visitor is enrolled.

(d) *Program administration.* Sponsors shall ensure that all officers, employees, agents, and volunteers acting on their behalf:

(1) Are adequately trained and supervised;

(2) Make no student placement outside a 150 mile radius of the home of an organizational representative authorized to act on the sponsor's behalf in both routine and emergency matters arising from a student's participation in their exchange program;

(3) Ensure that no organizational representative act as both host family and area supervisor for any student participant whom that organizational representative may host;

(4) Maintain a regular schedule of personal contact with the student and host family, and ensure that the school has contact information for the local organizational representative and U.S. offices of the sponsor; and

(5) Adhere to all regulatory provisions set forth in this Part and all additional terms and conditions governing program administration that the Agency may from time to time impose.

(e) *Student selection.* In addition to satisfying the requirements of § 514.10(a), sponsors shall ensure that all participants in a designated secondary school student exchange program:

(1) Are *bona fide* students who:

(i) Are secondary school students in their home country who have not completed more than eleven years of primary and secondary study, exclusive of kindergarten; or

(ii) Are at least 15 years of age but not more than 18 and six months years of age at the time of initial school enrollment;

(2) Demonstrate maturity, good character, and scholastic aptitude; and

(3) Have not previously participated in an academic year or semester secondary school student exchange program in the United States.

(f) *Student enrollment.* (1) Sponsors shall secure prior written acceptance for the enrollment of any student participant in a United States public or private secondary school. Such prior acceptance shall:

(i) Be secured from the school principal or other authorized school administrator of the school or school system that the student participant will attend; and

(ii) Include written arrangements concerning the payment of tuition or waiver thereof if applicable.

(2) Sponsors shall maintain copies of all written acceptances and make such documents available for Agency inspection upon request.

(3) Sponsors shall submit to the school a written English language summary of the student's complete academic course work prior to commencement of school.

(4) Under no circumstance shall a sponsor facilitate the entry into the United States of a student for whom a school placement has not been secured.

(5) Sponsors shall not facilitate the enrollment of more than five students in one school unless the school itself has requested, in writing, the placement of more than five students.

(g) *Student orientation.* In addition to the orientation requirements set forth herein at § 514.10, all sponsors shall provide students, prior to their departure from the home country, with the following information:

(1) A summary of all operating procedures, rules, and regulations governing student participation in the exchange program;

(2) A detailed profile of the school, family, and community in which the student is placed;

(3) A detailed summary of travel arrangements;

(4) An identification card which lists the student's name, United States home placement address and telephone number, and a telephone number which affords immediate contact with both the Agency and sponsor in case of emergency. Such cards may be provided in advance of home country departure or immediately upon entry into the United States.

(h) *Student extra-curricular activities.* Students may participate in school sanctioned and sponsored extra-curricular activities, including athletics, if such participation is:

(1) Authorized by the local school district in which the student is enrolled; and

(2) Authorized by the state authority responsible for determination of athletic eligibility, if applicable.

(i) *Student employment.* Students may not be employed on either a full or part-time basis but may accept sporadic or intermittent employment such as babysitting or yard work.

(j) *Host family selection.* Sponsors shall adequately screen all potential host families and at a minimum shall:

(1) Provide potential host families with a detailed summary of the exchange program and the parameters of

their participation, duties, and obligations;

(2) Utilize a standard application form for all host family applicants which provides a detailed summary and profile of the host family, the physical home environment, family composition, and community environment;

(3) Conduct an in-person interview with all family members residing in the home;

(4) Ensure that the host family is capable of providing a comfortable and nurturing home environment;

(5) Ensure that the host family is a good reputation and character by securing two personal references for each host family from the school or community, attesting to the host family's good reputation and character;

(6) Ensure that the host family has adequate financial resources to undertake hosting obligations; and

(7) Maintain a record of application forms, evaluations, and interviews for all selected host families for a period of three years.

(k) *Host family orientation.* In addition to the orientation requirements set forth in § 514.10, sponsors shall:

(1) Inform all host families of the philosophy, rules, and regulations governing the sponsor's exchange program;

(2) Provide all selected host families with a copy of Agency-promulgated Exchange Visitor Program regulations; and

(3) Advise all selected host families of strategies governing cross-cultural interaction and conduct workshops which will familiarize the host family with cultural differences and practices.

(l) *Host family placement.* (1) Sponsors shall secure, prior to the student's departure from the home country, a host family placement for each student participant. Sponsors shall not:

(i) Facilitate the entry into the United States for a student for whom a host family placement has not been secured; and

(ii) Place more than one student with a host family without the express prior written consent of the Agency.

(2) Sponsors shall advise both the student and host family, in writing, of the respective family compositions and backgrounds of each and shall facilitate and encourage the exchange of correspondence between the two prior to the student's departure from the home country.

(3) In the event of unforeseen circumstances which necessitate a change of host family placement, the sponsor shall document the reasons necessitating such change and provide the Agency with an annual statistical summary reflecting the number and the reason for such change in host family placement.

(m) *Placement report.* In lieu of listing the name and address of the host family and school placement on a participant's Form IAP–66, sponsors must, no later than August 31st of each academic year, submit to the Agency a report of all academic year program participants. Such report shall set forth the participant's name, school, and host family placements. A report of semester participants entering United States schools during the January to June term shall be submitted to the Agency by January 15th.

§ 514.26 Specialists.

(a) *Introduction.* These regulations govern experts in a field of specialized knowledge or skill coming to the United States for observing, consulting, or demonstrating special skills, except:

(1) Research scholars and professors, who are governed by regulations set forth at § 514.20;

(2) Short-term scholars, who are governed by regulations set forth at § 514.21; and

(3) Alien physicians in graduate medical education or training, who are governed by regulations set forth in § 514.27.

(b) *Purpose.* The Exchange Visitor Program promotes the interchange of knowledge and skills among foreign and American specialists, who are defined as experts in a field of specialized knowledge or skills, and who visit the United States for the purpose of observing, consulting, or demonstrating their special skills. It does so by providing foreign specialists the opportunity to observe American institutions and methods of practice in their professional fields, and to share their specialized knowledge with their American colleagues. The exchange of specialists promotes mutual enrichment, and furthers linkages among scientific institutions, government agencies, museums, corporations, libraries, and similar types of institutions. Such exchanges also enable visitors to better understand American culture and society and enhance American knowledge of foreign cultures and skills. This category is intended for exchanges with experts in such areas, for example, as mass media communication, environmental science, youth leadership, international educational exchange, museum exhibitions, labor law, public administration, and library science. This category is not intended for experts covered by the exchange visitor categories listed in § 514.26(a) (1) through (3) of this section.

(c) *Designation.* The Agency may, in its discretion, designate *bona fide* programs satisfying the objectives in section (b) above as an exchange visitor program in the specialist category.

(d) *Visitor eligibility.* A foreign national shall be eligible to participate in an exchange visitor program as a specialist if the individual:

(1) Is an expert in a field of specialized knowledge or skill;

(2) Seeks to travel to the United States for the purpose of observing, consulting, or demonstrating his or her special knowledge or skills; and

(3) Does not fill a permanent or long-term position of employment while in the United States.

(e) *Visitor selection.* Sponsors shall adequately screen and select specialists prior to accepting them for the program, providing a formal selection process, including at a minimum:

(1) Evaluation of the qualifications of foreign nationals to determine whether they meet the definition of specialist as set forth in § 514.4(g); and

(2) Screening foreign nationals to ensure that the requirements of § 514.10(a) are satisfied.

(f) *Program disclosure.* Before the program begins, the sponsor shall provide the specialist, in addition to what is required in § 514.10(b), with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the specialist.

(g) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the specialist has been accepted by the organization(s) with which he or she will participate in an exchange visitor program.

(h) *Location of the exchange.* The specialist shall participate in an exchange visitor program at the location(s) listed on his or her Form IAP–66.

(i) *Duration of participation.* The specialist shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.27 Alien physicians.

(a) *Purpose.* Pursuant to the Mutual Educational and Cultural Exchange Act, as amended by the Health Care Professions Act, Public Law 94–484, the Agency facilitates exchanges for foreign medical graduates seeking to pursue

graduate medical education or training at accredited schools of medicine or scientific institutions. The Agency also facilitates exchanges of foreign medical graduates seeking to pursue programs involving observation, consultation, teaching, or research activities.

(b) *Clinical exchange programs.* The Educational Commission for Foreign Medical Graduates must sponsor alien physicians who wish to pursue programs of graduate medical education or training conducted by accredited U.S. schools of medicine or scientific institutions. Such Foreign Medical Graduates shall:

(1) Have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States;

(2) Will be able to adapt to the educational and cultural environment in which they will be receiving their education or training;

(3) Have the background, needs, and experiences suitable to the program as required in § 514.10(a)(1);

(4) Have competency in oral and written English;

(5) Have passed either Parts I and II of the National Board of Medical Examiners Examination, the Foreign Medical Graduate Examination in the Medical Sciences, the United States Medical Licensing Examination, Step I and Step II, or the Visa Qualifying Examination (VQE) prepared by the National Board of Medical Examiners, administered by the Educational Commission for Foreign Medical Graduates. [NB—Graduates of a school of medicine accredited by the Liaison Committee on Medical Education are exempted by law from the requirement of passing either Parts I and II of the National Board of Medical Examiners Examination or the Visa Qualifying Examination (VQE)]; and

(6) Provide a statement of need from the government of the country of their nationality or last legal permanent residence. Such statement must provide written assurance, satisfactory to the Secretary of Health and Human Services, that there is a need in that country for persons with the skills the alien physician seeks to acquire and shall be submitted to the Educational Commission for Foreign Medical Graduates by the participant's government. The statement of need must bear the seal of the concerned government and be signed by a duly designated official of the government. The text of such statement of need shall read as follows:

Name of applicant for Visa: _____. There currently exists in (Country) a need for qualified medical practitioners in the speciality of _____. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought. Stamp (or Seal and signature) of issuing official of named country.
Dated: _____

Official of Named Country.

(7) Submit an agreement or contract from a U.S. accredited medical school, an affiliated hospital, or a scientific institution to provide the accredited graduate medical education. The agreement or contract must be signed by both the alien physician and the official responsible for the training.

(c) *Non-clinical exchange programs.* (1) A United States university or academic medical center which has been designated an exchange visitor program by the Director of the United States Information Agency is authorized to issue From IAP–66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching, or research if:

(i) The responsible officer or duly designated alternate of the exchange visitor program involved signs and appends to the Form IAP–66 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching, or research and that no element of patient care is involved" or

(ii) The dean of the involved accredited United States medical school or his or her designee certifies to the following five points and such certification is appended to the Form IAP–66 issued to the perspective exchange visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching, or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of _____.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professionals in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(2) The Educational Commission for Foreign Medical Graduates may also issue Form IAP–66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in this paragraph is appended to the Form IAP–66.

(d) *Public health and preventive medicine programs.* A United States university, academic medical center, school of public health, or other public health institution which has been designated as an exchange visitor program sponsor by the Director of the United States Information Agency is authorized to issue Forms IAP–66 to alien physicians to enable them to come to the United States for the purpose of entering into those programs which do not include any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (b) and (c) of this section need not be met. The responsible officer or alternate responsible officer of the exchange visitor program involved shall append a certification to the Form IAP–66 which states.

This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care.

(e) *Duration of participation.* (1) The duration of an alien physician's participation in a program of graduate medical education or training is limited to the time typically required to complete such program. Duration shall be determined by the Director of the United States Information Agency at the time of the alien physician's entry into the United States. Such determination shall be based on criteria established in coordination with the Secretary of Health and Human Services and which take into consideration the requirements of the various medical specialty boards as evidenced in the Director of Medical Specialties published by Marquis Who's Who for the American Board of Medical Specialties.

(2) Duration of participation is limited to seven years unless the alien physician has demonstrated to the satisfaction of the Director that the country to which the alien physician will return at the end of additional specialty education or training has an exceptional need for an individual with such additional qualification.

(3) Subject to the limitations set forth above, duration of participation may, for good cause shown, be extended beyond the period of actual training or education to include the time necessary to take an examination required for certification by a specialty board.

(4) The Director may include within the duration of participation a period of supervised medical practice in the United States if such practice is an eligibility requirement for certification by a specialty board.

(i) Alien physicians shall be permitted to undertake graduate medical education or training in a specialty or subspecialty program whose board requirements are not published in the Director of Medical Specialists if the Board requirements are certified to the Director and to the Educational Commission for Foreign Medical Graduates by the Executive Secretary of the cognizant component board of the American Board of Medical Specialties.

(ii) The Director may, for good cause shown, grant an extension of the program to permit an alien physician to repeat one year of clinical medical training.

(5) The alien physician must furnish the Attorney General each year with an affidavit (Form I–644) that attests the alien physician:

(i) Is in good standing in the program of graduate medical education or training in which the alien physician is participating; and

(ii) Will return to the country of his nationality or last legal permanent resident upon completion of the education or training for which he came to the United States.

(f) *Change of program.* The alien physician may, once and not later than two years after the date the alien physician enters the United States as an exchange visitor or acquires exchange visitor status, change his designated program of graduate medical education or training if the Director approves the change and if the requirements of paragraphs § 514.27(b) and § 514.27(e) of this section are met for the newly designated specialty.

(g) *Applicability of section 212(e) of the Immigration and Nationality Act.* (1) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended. Such physicians are not eligible to be considered for section 212(e) waivers on the basis of "No Objection" statements issued by their governments.

(2) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject to the two-year home-country physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, but may be subject to this requirement if they are governmentally financed or pursuing a field of study set forth on their countries' Exchange Visitor Skills List. Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act, as amended, on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Director of the United States Information Agency.

§ 514.28 International visitors.

(a) *Purpose.* The international visitor category is for the exclusive use of the Agency. Programs under § 514.28 are for foreign nationals who are recognized or potential leaders and are selected by the Agency to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These programs are designed to enable the international visitors to better understand American culture and society and contribute to enhanced American knowledge of foreign cultures. The category is for people-to-people programs which seek to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions.

(b) *Selection.* The Agency and third parties assisting the Agency shall adequately screen and select prospective international visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(c) *Visitor eligibility.* An individual participating in an exchange visitor program as an international visitor shall be:

(1) Selected by the Agency;

(2) Engaged in consultation, observation, research, training, or demonstration of special skills; and

(3) A recognized or potential leader in a field of specialized knowledge or skill.

(d) *Program disclosure.* At the beginning of the program, the sponsor shall provide the international visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program; and

(2) A summary of the significant components of the program.

(e) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the international visitor has been selected by the Agency.

(f) *Location of the exchange.* The international visitor shall participate in an exchange visitor program at locations approved by the Agency.

(g) *Duration of participation.* The international visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed one year.

§ 514.29 Government visitors.

(a) *Purpose.* The government visitor category is for the exclusive use of the U.S. federal, state, or local government agencies. Programs under § 514.29 are for foreign nationals who are recognized as influential or distinguished persons, and are selected by U.S. federal, state, or local government agencies to participate in observation tours, discussions, consultation, professional meetings, conferences, workshops, and travel. These are people-to-people programs designed to enable government visitors to better understand American culture and society, and to contribute to enhanced American knowledge of foreign cultures. The objective is to develop and strengthen professional and personal ties between key foreign nationals and Americans and American institutions. The government visitor programs are for such persons as editors, business and professional persons, government officials, and labor leaders.

(b) *Designation.* The Agency may, in its sole discretion, designate as sponsors U.S. federal, state, and local government agencies which offer foreign nationals the opportunity to participate in people-to-people programs which promote the purpose as set forth in (a) above.

(c) *Selection.* Sponsors shall adequately screen and select prospective government visitors to determine compliance with § 514.10(a) and the visitor eligibility requirements set forth below.

(d) *Visitor eligibility.* An individual participating in an exchange visitor program as a government visitor shall be:

(1) Selected by a U.S. federal, state, and local government agency;

(2) Engaged in consultation, observation, training, or demonstration of special skills; and

(3) An influential or distinguished person.

(e) *Program disclosure.* Before the beginning of the program, the sponsor shall provide the government visitor with:

(1) Information on the length and location(s) of his or her exchange visitor program;

(2) A summary of the significant components of the program; and

(3) A written statement which clearly states the stipend, if any, to be paid to the government visitor.

(f) *Issuance of Form IAP–66.* The Form IAP–66 shall be issued only after the government visitor has been selected by a U.S. federal, state, or local government agency and accepted by the private and/or public organization(s) with whom he or she will participate in the exchange visitor program.

(g) *Location of the exchange.* The government visitor shall participate in an exchange visitor program at the locations listed on his or her Form IAP–66.

(h) *Duration of participation.* The government visitor shall be authorized to participate in the Exchange Visitor Program for the length of time necessary to complete the program, which shall not exceed eighteen months.

§ 514.30 Camp counselors.

(a) *Introduction.* In order to promote diverse opportunities for participation in educational and cultural exchange programs, the Agency designates exchange sponsors to facilitate the entry of foreign nationals to serve as counselors in U.S. summer camps. These programs promote international understanding by improving American knowledge of foreign cultures while enabling foreign participants to increase their knowledge of American culture. The foreign participants are best able to carry out this objective by serving as counselors per se, that is, having direct responsibility for supervision of groups of American youth and of activities that bring them into interaction with their charges. While it is recognized that some non-counseling chores are an essential part of camp life for all counselors, this program is not intended to assist American camps in bringing in foreign nationals to serve as administrative personnel, cooks, or menial laborers, such as dishwashers or janitors.

(b) *Participant eligibility.* Participation in camp counselor exchange programs is limited to foreign nationals who:

(1) Are at least 18 years of age;

(2) Are *bona fide* youth workers, students, teachers, or individuals with specialized skills; and

(3) Have not previously participated more than once in a camp counselor exchange.

(c) *Participant selection.* In addition to satisfying the requirements in § 514.10(a), sponsors shall adequately screen all international candidates for camp counselor programs and at a minimum:

(1) Conduct an in-person interview; and

(2) Secure references from a participant's employer or teacher regarding his or her suitability for participation in a camp counselor exchange.

(d) *Participant orientation.* Sponsors shall provide participants, prior to their departure from the home country, detailed information regarding:

(1) Duties and responsibilities relating to their service as a camp counselor;

(2) Contractual obligations relating to their acceptance of a camp counselor position; and

(3) Financial compensation for their service as a camp counselor.

(e) *Participant placements.* Sponsors shall place eligible participants at camping facilities which are:

(1) Accredited;

(2) A member in good standing of the American Camping Association;

(3) Officially affiliated with a nationally recognized non-profit organization; or

(4) Have been inspected, evaluated, and approved by the sponsor.

(f) *Participant compensation.* Sponsors shall ensure that international participants receive pay and benefits commensurate with those offered to their American counterparts.

(g) *Participant supervision.* Sponsors shall provide all participants with a phone number which allows 24 hour immediate contact with the sponsor.

(h) *Program administration.* Sponsors shall:

(1) Comply with all provisions set forth in subpart A of this part;

(2) Not facilitate the entry of any participant for a program of more than four months duration; and

(3) Under no circumstance facilitate the entry into the United States of a participant for whom a camp placement has not been pre-arranged.

(i) *Placement report.* In lieu of listing the name and address of the camp facility at which the participant is placed on Form IAP–66, sponsors shall submit to the Agency, no later than July 1st of each year, a report of all participant placements. Such report shall reflect the participant's name and camp placement.

Subpart C—Status of Exchange Visitors

§ 514.40 Termination of program participation.

(a) A sponsor shall terminate an exchange visitor's participation in its program when the exchange visitor:

(1) Fails to pursue the activities for which he or she was admitted to the United States;

(2) Is unable to continue, unless otherwise exempted pursuant to these regulations;

(3) Violates the Exchange Visitor Program regulations and/or the sponsor's rules governing the program, if, in the sponsor's opinion, termination is warranted;

(4) Willfully fails to maintain the insurance coverage required under § 514.14 of these regulations; or

(b) An exchange visitor's participation in the Exchange Visitor Program is subject to termination when he or she engages in unauthorized employment. Upon establishing such violation, the Agency shall terminate the exchange visitor's participation in the Exchange Visitor Program.

§ 514.41 Change of category.

(a) The Agency may, in its discretion, permit an exchange visitor to change his or her category of exchange participation. Any change in category must be clearly consistent with and closely related to the participant's original exchange objective and necessary due to unusual or exceptional circumstances.

(b) A request for change of category along with supporting justification must be submitted to the Agency by the participant's sponsor. Upon Agency approval the sponsor shall issue to the exchange visitor a duly executed Form IAP–66 reflecting such change of category and provide a notification copy of such form to the Agency.

(c) Requests for change of category from research scholar to student will be evaluated recognizing the fact that, in some cases, research skills can be substantially enhanced by doctoral study.

(d) An exchange visitor who applies for a change of category pursuant to these regulations is considered to be maintaining lawful status during the pendency of the application.

(e) An exchange visitor who applies for a change of category and who subsequently receives notice from the Agency that the request has been denied is considered to be maintaining lawful status for an additional period of thirty days from the day of such notice, during which time the exchange visitor is

expected to depart the country, or for a period of thirty days from expiration of the exchange visitors' Form IAP–66, whichever is later.

§ 514.42 Transfer of program.

(a) Program sponsors may, pursuant to the provisions set forth in this section, permit an exchange visitor to transfer from one designated program to another designated program.

(b) The responsible officer of the program to which the exchange visitor is transferring:

(1) Shall verify the exchange visitor's visa status and program eligibility;

(2) Execute the Form IAP–66; and

(3) Secure the written release of the current sponsor.

(c) Upon return of the completed Form IAP–66, the responsible officer of the program to which the exchange visitor has transferred shall provide:

(1) The exchange visitor his or her copy of the Form IAP–66; and

(2) A notification copy of such form to the Agency.

§ 514.43 Extension of Program.

(a) Responsible officers may extend an exchange visitor's participation in the Exchange Visitor Program up to the limit of the permissible period of participation authorized for his or her specific program category.

(b) A responsible officer extending the program of an exchange visitor shall issue to the exchange visitor a duly executed Form IAP–66 reflecting such extension and provide a notification copy of such form to the Agency.

(c) The responsible officer seeking a program extension on behalf of an exchange visitor in excess of that authorized for his or her specific category of participation shall:

(1) Adequately document the reasons which justify such extension; and

(2) Secure the prior written approval of the Agency for such extension.

(d) In addition to individual requests, the Agency shall entertain requests for groups of similarly situated exchange visitors.

§ 514.44 Two-year home-country physical presence requirement.

(a) *Statutory basis for rule.* Section 212(e) of the Immigration and Nationality Act, as amended, provides in substance as follows:

(1) No person admitted under Section 101(a) (15)(J) or acquiring such status after admission:

(i) Whose participation in the program for which he came to the United States was financed in whole or in part, directly or indirectly, by an agency of the United States Government or by the government of the country of his nationality or of his last legal permanent residence;

(ii) Who at the time of admission or acquisition of status under 101(a)(15)(J) was a national or resident of a country which the Director of the United States Information Agency, pursuant to regulations prescribed by him, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the alien was engaged [See "Exchange Visitor Skills List", 49 FR 24194, *et seq.* (June 12, 1984) as amended]; or

(ii) Who came to the United States or acquired such status in order to receive graduate medical education or training, shall be eligible to apply for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until is established that such person has resided and been physically present in the country of his nationality or his last legal permanent residence for an aggregate of at least two years following departure from the United States.

(2) Upon the favorable recommendation of the Director of the United States Information Agency, pursuant to the request of an interested United States Government agency, or of the Commissioner of Immigration and Naturalization after the latter has determined that departure from the United States would impose exceptional hardship upon the alien's spouse or child (if such spouse or child is a citizen of the United States or a legal permanent alien), or that the alien cannot return to the country of his nationality or last legal permanent residence because he would be subject to persecution on account of race, religion, or political opinion, the Attorney General may waive the requirement of such two-year foreign residence abroad in the case of any alien whose admission to the United States is found by the Attorney General to be in the national interest.

(3) Except in the case of an alien who is a graduate of a medical school pursuing a program in graduate medical education or training, the Attorney General, upon the favorable recommendation of the Director of the United States Information Agency, may also waive such two-year foreign residency requirement in any case in which the foreign country of the alien's nationality or last legal permanent residence has furnished the Director of the United States Information Agency a statement in writing that it has no objection to such waiver in the case of such alien.

(b) *Request for waiver on the basis of exceptional hardship or probable persecution on account of race, religion, or political opinion.* (1) An exchange visitor who seeks a waiver of the two-year home-country physical presence requirement on the grounds that such requirement would impose exceptional hardship upon the exchange visitor's spouse or child (if such spouse or child is a citizen of the United States or a legal permanent resident alien), or on the grounds that such requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, shall submit the application for waiver (INS Form I–612) to the District Office of the Immigration and Naturalization Service having administrative jurisdiction over the exchange visitor's place of temporary residence in the United States, or, if the exchange visitor has already departed the United States, to the district Office having administrative jurisdiction over the exchange visitor's last legal place of residence in the United States.

(2)(i) If the Commissioner of the Immigration and Naturalization Service ("Commissioner") determines that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, or would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Commissioner shall transmit a copy of his determination together with a summary of the details of the expected hardship or persecution, to the Waiver Review Branch, office of Exchange Visitor Program Services, in the Agency's Office of General Counsel.

(ii) With respect to those cases in which the Commissioner has determined that compliance with the two-year home-country physical presence requirement would impose exceptional hardship upon the spouse or child of the exchange visitor, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, make a recommendation, and forward it to the Commissioner. If it deems it appropriate, the Agency may request the views of each of the exchange visitors' sponsors concerning the waiver application. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(iii) With respect to those cases in which the Commissioner has determined that compliance with the

two-year home-country physical presence requirement would subject the exchange visitor to persecution on account of race, religion, or political opinion, the Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case, and after consulting thereon with the Bureau of Human Rights and Humanitarian Affairs of the United States Department of State, make a recommendation, and forward such recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency and such recommendation shall be forwarded to the Commissioner.

(c) *Requests for waiver made by an interested United States Government agency.* If an exchange visitor is a participant in an exchange visitor program or activity sponsored by or of interest to an agency of the United States Government, said agency may apply to the Waiver Review Branch for a waiver of the two-year home-country physical presence requirement on the ground that the granting of the waiver would be in the public interest and the exchange visitor's compliance with said requirement would be detrimental to a program or activity of interest to that agency. The application shall identify by name or location the organization which will utilize the exchange visitor's services and the name and address of the exchange visitor in the United States. The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(d) *Requests for waiver made on the basis of a statement from the exchange visitor's home-country that it has no objection to the waiver.* (1) Applications for waiver of the two-year home-country physical presence requirement may be supported by a statement of no objection by the exchange visitor's country of nationality or last legal permanent residence. The statement of no objection shall be directed to the Director through diplomatic channels; i.e., from the country's Foreign Office to the Agency through the U.S. Mission in the foreign country concerned, or through the foreign country's head of mission or duly appointed designee in the United States to the Director in the form of a diplomatic note. This note shall include applicant's full name, date and place of birth, and present address. Upon receipt of the no objection statement, the Waiver Review Branch shall instruct the applicant to complete a data sheet and to provide all Forms IAP–66 and the data sheet to the Waiver Review Branch. If deemed appropriate, the Agency may request the views of each of the exchange visitor's sponsors concerning the waiver application.

(2) The Waiver Review Branch shall review the program, policy, and foreign relations aspects of the case and forward its recommendation to the Commissioner. Except as set forth in § 514.44(f)(4), *infra*, the recommendation of the Waiver Review Branch shall constitute the recommendation of the Agency.

(3) An exchange visitor who is a graduate of a foreign medical school and who is pursuing a program in graduate medical education or training in the United States is prohibited under section 212(e) of the Immigration and Nationality Act from applying for a waiver on the basis of no objection from his or her country of nationality or last legal permanent residence.

(e) *Changed circumstances.* An applicant for a waiver on the grounds of extreme hardship or probable persecution on account of race, religion, or political opinion, has a continuing obligation to inform the Immigration and Naturalization Service of changed circumstances material to his or her pending application.

(f) *The Exchange Visitor Waiver Review Board.* (1) The Exchange Visitor Waiver Review Board ("Board") shall consist of the following Agency officers:

(i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Board;

(ii) An officer appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs from an appropriate office of the Bureau; and

(iii) The Deputy Director of the geographic area office responsible for the geographical area of the waiver applicant, or his or her designee.

(2) The Director of the office of Exchange Visitor Program Services or his or her designee shall serve as the Executive Secretary of the Board and shall present the facts of the waiver case to the Board, but shall not take part in the Board's deliberations.

(3) A person who has had substantial prior involvement in the particular case pending before the Board shall not be appointed to serve on the Board.

(4) The following waiver cases shall be referred to the Board for review:

(i) Cases involving requests of interested United States Government agencies, in which the recommendation of the Waiver Review Branch was unfavorable;

(ii) Cases in which another federal agency has provided the Agency with a written opposition to a waiver in which the recommendation of the Waiver Review Branch was favorable;

(iii) Cases in which a no objection letter has been submitted by the government of the exchange visitor's country of nationality or last legal residence, and in which the exchange visitor's participation in an exchange visitor program was financed by the United States Government in an amount not exceeding $2,000, and as to which the recommendation of the Waiver Review Branch was unfavorable;

(iv) Cases involving claims of probable persecution on the grounds of race, religion, or political opinion, in which the Department of State has provided the Agency with a written opinion that there is no genuine basis for a claim of probable persecution on the ground alleged by the applicant, and as to which the recommendation of the Waiver Review Board was favorable; and

(v) Cases in which for any reason the Waiver Review Branch requests Board review of its decision.

(g) *Action on cases referred to the Board.* (1) In each case to be referred to the Board pursuant to § 514.44(f)(4), *supra*, the Waiver Review Branch shall transmit its complete file on the case, along with a request to convene the Board, to the Director of the office of Exchange Visitor Program Services.

(2) The Director of the office of Exchange Visitor Program Services shall promptly convene the Board and notify the Agency's General Counsel of such convening of the Board.

(3) The General Counsel shall appoint, on a case-by-case basis, from among the attorneys in the Office of the General Counsel, one attorney to serve as legal advisor to the Board.

(4) Upon being convened, the Board shall review the case file and the program, policy, and foreign relations aspects of the case.

(5) The Board may consult with the attorney in the Office of the General Counsel who has been designated to serve as legal advisor to the Board.

(6) The Board may request that officers of the Waiver Review Branch appear before the Board and explain orally the basis for the recommendation of the Waiver Branch; however, no persons other than members of the Board and the Board's legal advisor may be present during the Board's deliberations.

(7) At the conclusion of its review of the case, the Board shall make a written

recommendation either granting or denying the waiver application. The recommendation of a majority of the Board shall constitute the recommendation of the Board.

(8) Each member of the Board shall sign the recommendation and promptly transmit the recommendation to the Waiver Review Branch.

(9) The recommendation of the Board in any case reviewed by it shall constitute the recommendation of the Agency and such recommendation shall be forwarded by the Director of EVPS to the Commissioner.

Subpart D—Sanctions

§ 514.50 Sanctions.

(a) *Reason for sanctions.* The Agency may, upon a determination by the office of Exchange Visitor Program Services ("EVPS"), impose sanctions against a sponsor which has:

(1) Willfully or negligently violated one or more provisions of this part;

(2) Evidenced a pattern of willful or negligent failure to comply with one or more provisions of this part;

(3) Committed an act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor; or

(4) Committed an act or acts which may have the effect of bringing the Agency or the Exchange Visitor Program into notoriety or disrepute.

(b) *Lesser sanctions.* (1) In order to ensure full compliance with the regulations in this part, the Agency, in its discretion and depending on the nature and seriousness of the violation, may impose any or all of the following sanctions ("lesser sanctions") on a sponsor for any of the reasons set forth in § 514.50(a):

(i) A written reprimand to the sponsor, with a warning that repeated or persistent violations of the regulations in this Part may result in suspension or revocation of the sponsor's exchange visitor program designation, or other sanctions as set forth herein;

(ii) A declaration placing the exchange visitor sponsor on probation, for a period of time determined by the Agency in its discretion, signifying a pattern of serious willful or negligent violation of regulations such that further violations could lead to suspension or revocation;

(iii) A corrective action plan designed to cure the sponsor's violations; or

(iv) A limitation or reduction in the authorized number of exchange visitors in the sponsor's program or in the geographic area of the sponsor's recruitment or activity.

(2) Within ten days of service of the written notice to the sponsor imposing any of the sanctions set forth in this paragraph, the sponsor may submit to EVPS any statement or information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and may request a conference. Upon its review and consideration of such submission, the Agency may,in its discretion, modify, withdraw, or confirm such sanction. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. The decision of EVPS is not appealable with regard to lesser sanctions in paragraphs (b)(1)(i) to (iv), if:

(i) The proposed limitation in the size of the sponsor's program is equivalent to 10 percent or less of the number of authorized visitors in the sponsor's program during the previous calendar year; or

(ii) The proposed limitation in the size of the sponsor's program will not cause a significant financial burden for the sponsor.

(c) *Suspension or significant program limitation.* (1) Upon a finding that a suspension, or a reduction in the sponsor's program equivalent to a number greater than 10 percent of the number of authorized visitors, is warranted for any of the reasons set forth at § 514.50(a), EVPS shall give written notice to the sponsor of the Agency's intent to impose the sanction, specifying therein the reasons for such sanction and the effective date thereof, which shall not be sooner than 30 days after the date of the letter of notification.

(2) Prior to the proposed effective date of such sanction, the sponsor may submit a protest to EVPS, setting forth therein any reasons why suspension should not be imposed, and presenting any documentary evidence in support thereof, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, within seven (7) days of receipt thereof, notify the sponsor in writing of its decision on whether the sanction is to be affected. In the event that the decision is to impose the sanction, such notice shall inform the sponsor of its right to appeal the sanction and of its right to a formal hearing thereon.

(4) The sponsor may within ten (10) days after receipt of the aforesaid notice effecting the sanction, appeal the sanction to the Exchange Visitor Program Designation, Suspension and Revocation Board ("Board") by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the sanction pending appeal.

(5) Upon receipt of the notice of appeal, the General Counsel or his or her designee, shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra.*

(d) *Summary suspension.* (1) EVPS may, upon a finding that a sponsor has willfully or negligently committed a serious act of omission or commission which has or could have the effect of endangering the health, safety, or welfare of an exchange visitor, and upon written notice to the sponsor specifying the reason therefor and the effective date thereof, notify the sponsor of the Agency's intent to suspend the designation of the sponsor's program for a period not to exceed sixty (60) days.

(2) No later than three (3) days after receipt of such notification, the sponsor may submit a rebuttal to the EVPS, setting forth therein any reasons why a suspension should not be imposed.

(3) The sponsor may present any statement or information in such protest, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the sanction, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS. Within three (3) days of receipt of such submissions, EVPS shall notify the sponsor in writing of its decision whether to effect the suspension. In the event the decision is to effect the suspension, such notice shall advise the sponsor of its right to appeal the suspension and of its right to a formal hearing thereon.

(4) The sponsor may, within ten (10) days after receipt of the aforesaid notice continuing the suspension, appeal the suspension to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal of a summary suspension shall not serve to stay the suspension pending appeal.

(5) Upon receipt of the notice of appeal, the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra.*

(e) *Revocation.* (1) EVPS may, for any reason set forth at § 514.50(a), give the

sponsor not less than thirty (30) days notice in writing of its intent to revoke the sponsor's exchange visitor program designation, specifying therein the grounds for such revocation and the effective date of the revocation. Revocation need not be preceded by the imposition of a summary suspension, a suspension, or any lesser sanctions.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to revoke, the sponsor shall have an opportunity to show cause as to why such revocation should not be imposed, and may submit to EVPS any statement of information, including, if appropriate, any documentary evidence or affidavits in opposition to or mitigation of the violations charged, and demonstrating that the sponsor is in compliance with all lawful requirements. All materials submitted by the sponsor shall become a part of the sponsor's file with EVPS.

(3) EVPS shall review and consider the sponsor's submission and, thereafter, notify the sponsor in writing of its decision on whether the revocation is to be effected. In the event that the decision on whether the revocation is to effect the revocation, such notice shall advise the sponsor of its right to appeal the revocation and of its right to a formal hearing thereon.

(4) The sponsor may, within twenty (20) days after receipt of the aforesaid notice effecting the revocation, appeal the revocation to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547. The filing of the notice of appeal shall serve to stay the effective date of the revocation pending appeal.

(5) Upon receipt of the notice of appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(f) *Responsible officers.* (1) The Agency may direct a sponsor to summarily suspend, suspend or revoke the appointment of a responsible officer or alternate responsible officer for any of the reasons set forth in paragraph "(a)" above.

(2) In the event that such action is directed, the sponsor shall be entitled to all of the rights of review or appeal that are accorded to a sponsor under paragraphs "(b)", "(c)", "(d)", and "(e)" of this section.

(g) *Denial of application for redesignation.* (1) EVPS shall give an applicant for redesignation not less than thirty (30) days notice in writing of its intentions to deny the application for exchange visitor program redesignation, specifying therein the grounds for such denial.

(2) Within ten (10) days of receipt of the aforesaid notice of intent to deny the application, the applicant shall have an opportunity to demonstrate why the application should be approved, and may submit to EVPS any statement or information including, if appropriate, any documentary evidence or affidavits in support of its application.

(3) EVPS shall review and consider the applicant's submission and thereafter notify the applicant in writing of its decision on whether the application for redesignation will be approved. In the event that the decision is to deny the applicant, such notice shall advise the applicant of its right to appeal the denial and of its right to a formal hearing thereon.

(4) The applicant may, within twenty (20) days after receipt of the aforesaid notice of denial, appeal the denial to the Board by filing a notice of appeal with the Agency's General Counsel, room 700, 301 4th Street, SW., Washington, DC 20547.

(5) Upon receipt of the notice of appeal the General Counsel or his or her designee shall, within ten (10) days, convene the Board. Thereafter, proceedings before the Board shall follow the regulations set forth in § 514.50(i), *infra*.

(h) *The Exchange Visitor Program Designation, Suspension, and Revocation Board.* (1) The Exchange Visitor Program Designation, Suspension, and Revocation Board ("Board") shall consist of:

(i) The Deputy Associate Director of the Bureau of Educational and Cultural Affairs, or his or her designee, who shall serve as presiding officer of the Board;

(ii) The Deputy Director of the relevant geographic area office, or his or her designee; and

(iii) A member of the public appointed by the Deputy Associate Director of the Bureau of Educational and Cultural Affairs. A different public member shall be appointed for each sanction case brought before the Board.

(2) The General Counsel of the Agency shall appoint an attorney in the Office of the General Counsel to prosecute the case before the Board on behalf of the Agency. Such attorney shall not take part in the deliberations of the Board.

(3) The General Counsel of the Agency shall also appoint an attorney in the Office of the General Counsel to serve as a legal advisor to the Board. Such attorney shall not have had any substantial prior involvement with the particular case pending before the Board.

(i) *General powers of the board.* At any hearing before the Board pursuant to this Part, the Board may:

(1) Administer oaths and affirmations,

(2) Rule on offers of proof and receive any oral or documentary evidence;

(3) Require the parties to submit lists of proposed witnesses and exhibits, and otherwise regulate the course of the hearing;

(4) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(5) Dispose of motions, procedural requests, or similar matters; and

(6) Make decisions, which shall include findings of fact and conclusions of law on all the material issues of fact, law or discretion presented on the record, and the appropriate sanction or denial thereof.

(j) *Proceedings before the board.* The following procedures shall govern all designation, suspension, summary suspension, and revocation proceedings before the Board:

(1) Upon being convened, the Board shall schedule a hearing, within ten (10) days, at which hearing the parties may appear on their own behalf or by counsel, present oral or written evidence, and cross-examine witnesses. A substantially verbatim record of the hearing shall be made and shall become a part of the record of the proceeding;

(2) At the conclusion of the hearing, the Board shall promptly review the evidence and issue a written decision within ten (10) days, signed by a majority of the members, stating the basis for its decision. The decision of the majority shall be the decision of the Board. If a Board member disagrees with the majority, the member may write a dissenting opinion;

(3) If the Board decides to affirm the suspension, summary suspension, revocation, or denial of redesignation, a copy of its decision shall be delivered to EVPS, the sponsor, the Immigration and Naturalization Service, and the Bureau of Consular Affairs of the Department of State. EVPS, at its discretion, may distribute the Board's decision as it deems appropriate; and

(4) The suspension, revocation, or denial of designation shall be effective as of the date of the Board's decision.

(k) *Effect of suspension, summary suspension, revocation, or denial of redesignation.* A sponsor against which an order of suspension, summary suspension, revocation, or denial of redesignation has been entered shall not thereafter issue any Forms IAP–66, advertise, recruit, or otherwise promote its program, and under no circumstances shall the sponsor facilitate the entry of an exchange

visitor. Suspension, summary suspension, revocation, or denial of redesignation shall not invalidate any Forms IAP–66 issued prior to the effective date of the suspension, summary suspension, revocation, or denial of redesignation, nor shall the suspension, summary suspension, revocation, or denial of redesignation in any way diminish or restrict the sponsor's legal or financial responsibilities to existing program participants.

(l) *Miscellaneous*—(1) *Computation of time.* In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a federal legal holiday, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, or federal legal holidays shall be excluded in the computation.

(2) *Service of notice on sponsor.* When used in these regulations the terms "written notice to the sponsor" shall mean service of written notice by mail, delivery or facsimile, upon either the president, managing director, responsible officer, or alternate responsible officer of the sponsor.

Subpart E—Termination and Revocation of Programs

§ 514.60 Termination of designation.

Designation shall be terminated when any of the circumstances set forth in this section occur.

(a) *Voluntary termination.* A sponsor may voluntarily terminate its designation by notifying the Agency of such intent. The sponsor's designation shall terminate upon such notification. Such sponsor may reapply for designation.

(b) *Inactivity.* A sponsor's designation shall automatically terminate for inactivity if the sponsor fails to comply with the minimum size or duration requirements, as specified in § 514.8 (a) and (b), in any twelve month period. Such sponsor may reapply for program designation.

(c) *Failure to file annual reports.* A sponsor's designation shall automatically terminate if the sponsor fails to file annual reports for two consecutive years. Such sponsor is eligible to reapply for program designation upon the filing of the past due annual reports.

(d) *Change in ownership or control.* An exchange visitor program designation is not assignable or transferable. A major change in ownership or control automatically terminates the designation. However, the successor sponsor may apply to the Agency for redesignation and may continue its exchange visitor activities while approval of the application for redesignation is pending before the Agency.

(1) With respect to a for-profit corporation, a major change in ownership shall be deemed to have occurred when thirty-three and one-third percent (33⅓ percent) or more of its stock is sold or otherwise transferred within a 12 month period;

(2) With respect to a not-for-profit corporation, a major change of control shall be deemed to have occurred when fifty-one percent or more of the board of trustees, or other like body vested with its management, is replaced within a 12-month period.

(e) *Loss of licensure or accreditation.* A sponsor's designation shall automatically terminate in the event that the sponsor fails to remain in compliance with local, state, federal, or professional requirements necessary to carry out the activity for which it is designated, including loss of accreditation or licensure.

(f) *Failure to apply for redesignation.* Prior to the conclusion of its current designation period, the sponsor is required to apply for redesignation pursuant to the terms and conditions of § 514.7. Failure to apply for redesignation will result in the automatic termination of the sponsor's designation. If so terminated, the former sponsor may apply for a new designation, but the program activity will be suspended during the pendency of the application.

§ 514.61 Revocation.

A designation may be terminated by revocation for cause as specified in § 514.50. A sponsor whose designation has been revoked may not apply for a new designation within a five-year period.

§ 514.62 Responsibilities of the sponsor upon termination or revocation.

Upon termination or revocation of its designation, the sponsor shall:

(a) Fulfill its responsibilities to all exchange visitors who are in the United States at the time of the termination or revocation;

(b) Notify exchange visitors who have not entered the United States that the program has been terminated unless a transfer to another designated program can be obtained; and

(c) Return all Forms IAP–66 in the sponsor's possession to the Agency within 30 days of program termination or revocation.

Subpart F—Reserved

Subpart G—Summer/Work Travel

§ 514.8 Summer Student Travel/Work Program.

(a) The following criteria apply to United States organizations which have been designated by the United States Information Agency (USIA) to administer Summer Student Travel/Work Programs. These programs are designed to achieve the educational objectives of international exchange by involving students during their summer vacations directly in the daily life of the host country through temporary employment opportunities. The criteria require program sponsors to promote the exchange of United States and foreign students on a reciprocal basis thereby assuring that the operation of such programs will not have an adverse impact on labor opportunities for United States youth in the 18–23 year age bracket.

(1) *Selection.* The selection will be limited to bona fide university students screened for maturity and ability to get maximum benefit from Summer Travel/Work Programs. Priority consideration will be given to students who do not live in close proximity to the United States who would not be able to visit this country if temporary work permission were not authorized to help defray their travel expenses.

(2) *Orientation.* All students shall be provided with orientation, both pre-departure and upon arrival in the United States. The orientation should be designed to give the students a good basic knowledge of our country and its people. Students should be fully informed of the nature of the program in which they are participating. They should be provided with some type of identification card which includes the name and phone number of an official of the sponsoring organization as well as the number of the Exchange-Visitor Program in which they are participating. In addition, orientation should cover proper methods of obtaining and holding a job and the customary practices of giving employers adequate advance notice of resignation. Students should be fully briefed on the employment situation in the United States and advised not to seek employment in areas where a high unemployment situation exists.

(3) *Supervision.* Sponsors must be prepared to help their students at any time they have a medical, personal, employment, or other type of problem.

(4) *Jobs.* Each student sponsored on such a program must have a prearranged job before he or she comes to the United States, or firm appointments with prospective employers, or have sufficient personal funds so as to be financially independent if not employed.

(5) *United States employment.* Sponsors are required to check in advance with the Department of Labor to obtain information regarding areas or cities which have a high unemployment rate. Students should be advised to avoid such areas in seeking employment.

(6) *Financial responsibility.* Sponsors are required to ensure that all participants return home at no charge to the United States Government.

(7) *Health and accident insurance.* Sponsors shall ensure that every student has health and accident insurance coverage from the time of departure from home until the student returns to his or her home country. Minimum acceptable insurance is:

(i) Medical and accident coverage up to $2,000 per injury or illness; and

(ii) Preparation and transportation of remains to home country (at least $2,000). Coverage may be provided in one of the following ways:

(A) By health and accident coverage arranged for by the student.

(B) By health and accident insurance coverage arranged for by the sponsor.

(8) *Geographical distribution.* Sponsors shall develop plans to ensure that groups of students, especially those of the same nationality, are not "clustered" in certain areas or cities. Every effort should be made to have the students widely dispersed throughout the country.

(9) *Arrival time.* Students for whom the sponsors have arranged "preplacement" for jobs can begin their programs at any time. Travel for students who have not been "preplaced" should be delayed by the sponsors as late as possible, preferably after June 15. Such delayed travel will give American students who are interested in obtaining summer jobs from two to four weeks in a less competitive market.

(10) *Reciprocity.* Sponsors are required to administer Student Travel/Work Programs on a reciprocal basis. The number of foreign students a sponsor brings to the United States under this program shall not exceed, in any calendar year, the number of American students who were sent abroad by the sponsor on a Travel/Work Program. Should a sponsor fail in the realization of reciprocity in any given calendar year, the Agency may restrict the number of foreign students that the sponsor brings to the United States in the next calendar year to the number sent abroad by the sponsor in the preceding calendar year.

(11) *Report requirement.* Sponsors are required to submit an annual report, not later than January 31, on the United States students who were sent abroad the previous calendar year under Travel/Work Programs. The report should contain the following information: Name and United States address of the student, the country where the student was employed, name of employer and type of business, and the type and length of employment (dates). The report should also include an ongoing evaluation of both the incoming program for foreign students and the outgoing program for American students. Major problems encountered in the administration of the program should also be listed. Failure to submit the report by January 31 will result in the automatic suspension of the program. The program will not be reactivated until the report is received by USIA and the sponsor notified that suspension has been lifted.

(12) *Unauthorized activities.* Employment as servants, mother's helpers, au pair or other jobs of a domestic nature in private homes is not authorized. Employment must be of a commercial or industrial nature. Also, employment as a Camp Counselor is not authorized under the Travel/Work Program. All such unauthorized placements will be removed from the count of United States placements abroad which could reduce the number of foreign students which the sponsor will be permitted to bring into the United States during the following year.

(b) [Reserved]

Appendix A to Part 514—Certification of Responsible Officers and Sponsors

In accordance with the requirement at § 514.5(c)(6), the text of the certifications shall read as follows:

1. Responsible Officers and Alternate Responsible Officers

I hereby certify that I am the responsible officer (or alternate responsible officer, specify) for exchange visitor program number _____, and that I am a United States citizen or permanent resident. I understand that the United States Information Agency may request supporting documentation as to my citizenship or permanent residence at any time and that I must supply such documentation when and as requested. (Name of organization) agrees that my inability to substantiate the representation of citizenship or permanent residence made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP–66 transferred to it.

Signed in ink by

_____

(Name)

_____

(Title)

Witness: _____

This _____day of _____, 19____. Subscribed and sworn to before me this _____day of _____, 19____.

_____

Notary Public

2. *Sponsors.*

I hereby certify that I am the chief executive officer of (Name of Organization) with the title of (specify); that I am authorized to sign this certification and bind (Name of Organization). I further certify that (Name of Organization) is a citizen of the United States as that term is defined at 22 CFR § 514.2. (Name of Organization) agrees that inability to substantiate the representation of citizenship made in this certification will result in the immediate withdrawal of its designation and the immediate return of or accounting for all Forms IAP–66 transferred to it.

Signed in ink by

_____

(Name)

_____

(Title)

Attestation/Witness: _____

This _____day of _____, 19____. Subscribed and sworn to before me this _____day of _____, 19____.

_____

Notary Public

Appendix B to Part 514—Exchange Visitor Program Services, Exchange-Visitor Program Application

Form Approved OMB _____

Serial No. _____

1. Name and Address of Sponsoring Organization

_____

2. Name and Title of Responsible Officer

_____

Telephone Number

_____

3. Name and Title of Alternate Responsible Officer

_____

Telephone Number

_____

4. Type of Application (check one)

New _____ Re-Apply _____

Re-Designation _____

Section I—Program Participant Data (For Definition & Length of Stay See 22 CFR _____)

5. Participation by Category (indicate total no. and approximate duration of stay in each category)

A. Student _____
B. Teacher _____
C. Professor _____
D. Researcher _____
E. Short-term Scholar _____
F. Specialist _____
G. Trainee _____
1. Specialty _____
2. Nonspecialty _____
H. Int'l Visitor _____
I. Gov't Visitor _____
J. Physicians _____
K. Camp Cnslr _____
L. Sumr/Wk/Trvl _____

6. Method Of Selection

7. Arrangements for Financial Support of Exchange Visitor while in the U.S.

Section II—Program Data

8. Outline of Proposed Activities (If training, See Reverse)

9. Arrangements for Supervision and Direction

10. Purpose of Objective

11. Role of other Organizations Associated with Program (if any)

Section III—Certification

12. Citizenship Certification of Organization and Responsible Officer (see reverse)
13. I certify that information given in this application is true to the best of my knowledge and belief and that I have completed appropriate information on reverse of this form.

Signature of Responsible Officer

Date

Instructions for All Programs

If additional space is needed in supplying answers to any questions, please use continuation sheets on plain white paper.

1–3. Names and addresses of organization and telephone numbers.

4. Select type of application.

5. Select appropriate categories (see 22 CFR prior to filling out this data).

6–7. Complete information on program sponsor.

8–11. Complete information on program.

IF TRAINING PROGRAM, identify appropriate fields: 01—Arts & Culture; 02—Information Media and Communications; 03—Education; 04—Business and Commercial; 05—Banking and Financial; 06—Aviation; 07—Science, Mechanical and Industrial; 08—Construction and Building Trades; 09—Agricultural; 10—Public Administration; 11—Training, Other

Reapplication and Redesignation:

If your organization is making reapplication as an exchange visitor program, or applying for redesignation under 22 CFR ____, please certify to the following:

I hereby certify that as an officer of the organization making application for an exchange program under 22 CFR ____or 22 CFR ____that the following documents which have been submitted to the United States Information Agency, Exchange Visitor Program Services, remain in effect and not altered in any way:

(1) Legal status as a corporation such as Articles of Incorporation and By Laws. Provide dates and state of both:_____

(2) Accreditation. Provide date, type of accreditation, and State of accreditation:_____

(3) Evidence of Licensure. Provide date, type of license, and state of licensure:_____.

(4) Authorization of governing body authorizing application. Please provide date of such authorization and authorizing body:_____.

(5) Activities in which the organization has been engaged have not changed since application dated:_____.

(6) Citizenship. Provide the date of compliance with citizenship requirements:_____. If citizenship compliance is not current, please complete the following:

Organization: I hereby certify that I am an officer of _____with the title of _____; that I am authorized by the (Board of Directors, Trustees, etc.) to sign this certification and bind _____; and that a true copy certified by the (Board of Directors, Trustees, etc.) of such authorization is attached. I further certify that _____is a citizen of the United States as that term is defined at 22 CFR 514.1.

Responsible Officer or Alternate Responsible Officer: I hereby certify that I am the responsible officer (or alternate responsible officer) for _____, and that I am a citizen of the United States (or a person lawfully admitted to the United States for permanent residence. _____agrees that my inability to substantiate my citizenship or status as a permanent resident will result in the immediate withdrawal of its designation and immediate return of or accounting for all IAP–66 forms transferred to it.

Certification as to (1)–(6) Requirements:

I understand that false certification may subject me to criminal prosecution under 18 U.S.C. 1001, which reads: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme or device a material fact or makes any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both."

Signed in ink by (Name) _____
Title _____
Subscribed and sworn to before me this _____day of _____, 19____. Notary Public

USIA Use Only

Type of program: _____
Subtype if applicable: _____
No. Forms IAP–66: _____
Categories: _____

Please return form to:
Exchange Visitor Program Services-GC/V,
United States Information Agency,
Washington, DC 20547

Note: Public reporting burden for this collection of information (Paperwork Reduction Project: OMB No. 3116–0011) is estimated to average ____minutes/hours per response, including time for reviewing instructions, researching 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 USIA Clearance Officer, M/ASP, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Appendix C to Part 514—Update of Information on Exchange-Visitor Program Sponsor

Please amend the United States Information Agency records for Exchange-Visitor
Program Number _____
assigned to _____as follows:
(Name of institution/organization)

1. Change the name of the Program Sponsor
from the above to _____

2. Change the address of the Program Sponsor
From: _____

(city) (state) (zip)
To: _____

(city) (state) (zip)

3. ( ) Change the telephone number from _____to _____
( ) Change the fax number from _____to _____

4. ( ) Change the name of the Responsible Officer of the above program from _____ to _____

5. a. Delete the following Alternate Responsible Officer:

5. b. Add the following Alternate Responsible Officer:

(Citizenship is required for all Responsible and Alternate Responsible Officers-See Reverse)

6. ( ) Send _____(indicate number) IAP–66 forms. (PLEASE ALLOW FOUR TO SIX WEEKS FOR RESPONSE AND REMEMBER TO SUBMIT THE ANNUAL REPORT)

7. ( ) Send _____copies of this form.

8. ( ) Send _____copies of *Codes for Educational and Cultural Exchange.*

9. ( ) Cancel the above named Exchange Visitor Program.

(Signature of Responsible or Alternate Responsible Officer)

(Date)

(Title of Signing Officer)

Appendix D—Annual Report—Exchange Visitor Program Services (GC/V), United States Information Agency, Washington, DC 20547, (202–401–7964)

Exchange Visitor Program No. _____ Reporting Period _____Provide Range of Forms IAP–66 Documents Covered by this Report (_____-_____).

(a) STATISTICAL REPORT

(1) ACTIVITY BY CATEGORY

	Number
Professor	_____
Research Scholar	_____
Short-term Scholar	_____
Trainee	_____
Student (College and University)	_____
Student (Practical Trainee)	_____
Teacher	_____
Student (Secondary)	_____
Specialists	_____
Physicians	_____
International Visitors	_____
Government Visitors	_____
Camp Counselors	_____
Total	_____

(2) Forms IAP–66 Reconciliation

(i) Number of Forms IAP–66 voided or otherwise not used by participant _____.

(ii) Number of Forms IAP–66 issued for dependents _____.

(iii) Number of Forms IAP–66 currently on hand _____.

(b) PROGRAM EVALUATION

On a separate sheet, please provide a brief narrative report on program activity, difficulties encountered and their resolution, program transfers, anticipated growth and the proposed new activity, cross-cultural activities, as well as the reciprocal component of the program.

I, The Responsible Officer of the program indicated above, certify that we have complied with the insurance requirement (22 CFR 514.14). I also certify that the information contained in this report is complete and correct to the best of my knowledge and belief.

Responsible Officer (signed)
Date _____

Name and address of sponsoring institution

Appendix E to Part 514—Unskilled Occupations

For purposes of 22 CFR 514.22(c)(1), the following are considered to be "unskilled occupations":

(1) Assemblers
(2) Attendants, Parking Lot
(3) Attendants (Service Workers such as Personal Services Attendants, Amusement and Recreation Service Attendants)
(4) Automobile Service Station Attendants
(5) Bartenders
(6) Bookkeepers
(7) Caretakers
(8) Cashiers
(9) Charworkers and Cleaners
(10) Chauffeurs and Taxicab Drivers
(11) Cleaners, Hotel and Motel
(12) Clerks, General
(13) Clerks, Hotel
(14) Clerks and Checkers, Grocery Stores
(15) Clerk Typist
(16) Cooks, Short Order
(17) Counter and Fountain Workers
(18) Dining Room Attendants
(19) Electric Truck Operators
(20) Elevator Operators
(21) Floorworkers
(22) Groundskeepers
(23) Guards
(24) Helpers, any industry
(25) Hotel Cleaners
(26) Household Domestic Service Workers
(27) Housekeepers
(28) Janitors
(29) Key Punch Operators
(30) Kitchen Workers
(31) Laborers, Common
(32) Laborers, Farm
(33) Laborers, Mine
(34) Loopers and Toppers
(35) Material Handlers
(36) Nurses' Aides and Orderlies
(37) Packers, Markers, Bottlers and Related
(38) Porters
(39) Receptionists
(40) Sailors and Deck Hands
(41) Sales Clerks, General
(42) Sewing Machine Operators and Handstitchers
(43) Stock Room and Warehouse Workers
(44) Streetcar and Bus Conductors
(45) Telephone Operators
(46) Truck Drivers and Tractor Drivers
(47) Typist, Lesser Skilled
(48) Ushers, Recreation and Amusement
(49) Yard Workers

Appendix F to Part 514—Comments on October 9, 1992 Federal Register Notice

[**Note:** This Appendix will not appear in the Code of Federal Regulations]

Comments on the October 9, 1992 **Federal Register** Notice were received from the following parties:

Betsy Mikesell
Sarah L. Olbrich
Boy Scouts of America, National Office
The University of New Mexico
Merrimack Valley YMCA (2)
Brandeis University (2)
Xavier University
Virginia Polytechic Institute
The University of Iowa (5)
The University of Mississippi
Alan W. Boyd
Ohio State University
The Aloha Foundation
Fragomen, Del Rey & Bernsen (on behalf of North American Institute of Aviation)
University of New Orleans
Tulane University (4)
Hendrix Health Center, Moorhead State University
University of the State of New York
Wichita State University
Oregon State University (3)
American Secondary Schools For International Students and Teachers, Inc. (ASSIST)
Northeastern University (2)
Sanford Roeser
Rotary International, Youth Exchange Program District 5840
KDM Development Corp.
Trenton State College (2)
Augustana College
American Camping Association, New England Section
American Camping Association, Virginias Section
East-West Center
Center for Advanced Study in the Behavioral Sciences
American Immigration Lawyers Association (AILA)
George Fox College
University of Miami
Study Associates International
Helicopter Adventures, Inc.
Howe & Trowbridge
American Association of University Women Educational Foundation
AIESEC (enclosing a number of letters from members)
St. Paul's School
Russell Reynolds Associates, Inc.
Simpson College
Ronald N. Serota, CPA
The Fulbright Commission (The United States—United Kingdom Educational Commission)
University of Minnesota (2)
Colorado State University
Oklahoma State University
Eastern Michigan University
CDS International, Inc.
Massachusetts Institute of Technology (2)
Kentucky Rotary Youth International Exchange, Inc.
Vanderbilt University
Donald J. Hester
The Graduate School and University Center of the City University of New York (2)
University of Rochester
American Institute for Foreign Study
Pelican Express/Pelican Airways (2)
The American-Scandinavian Foundation
University of Pittsburgh
Iowa State University of Science and Technology
Central College
The British Embassy
University of Wisconsin, Madison
Loyola University
The University of Illinois at Chicago (3)
The University of Illinois at Urbana-Champaign
The University of Texas at Arlington
Massachusetts General Hospital (3)
Rutgers—The State University of New Jersey (2)
Salisbury School
Cornell University
North Carolina State University
Boston University
The City University of New York
Boston College

Independent Insurance Agents of America
Montana State University
BUNACAMP (British Universities North America Club)
The Taft School
Lehman College, The City University of New York
San Diego State University
Indiana University—Purdue University at Indianapolis
Northern Arizona University
St. Andrew's School
The University of Texas at Austin
The International School of Brussels
The Rockefeller Foundation
University of Colorado (5)
South Seas Plantation
Universities Research Associates, Inc.
University of Maine at Farmington
University of Houston
Abraham Baldwin Agricultural College
Milton-Union Exempted Village Schools
The Ritz-Carlton Hotel Company
Western Illinois University
Mrs. Carlyle F. Barnes
Rotary International Youth Exchange
Louisiana State University
William H. Connelly
AMIDEAST
Eastern States Student Exchange Program, Inc. (ESSEX)
Travel Insurance Services
Cape Cod Sea Camps
University of California, San Diego (3)
Association for International Practical Training (AIPT)
Council on International Educational Exchange
German Central Office for Job Placement
The Ohio State University (2)
Duke University
General Electric Technical Services Company, Inc.
Harvard University
University of Medicine & Dentistry of New Jersey
Timothy P. Fisher, Esq., P.C. (on behalf of ASSE International Student Exchange Programs, Inc.)
The University of Toledo (2)
YMCA International Program Services
EF Educational Foundation for Foreign Study
Mayo Foundation
Michigan State University
Antioch University
The School of the Art Institute of Chicago
Massachusetts College of Pharmacy & Allied Health Sciences
University of Wisconsin, Milwaukee
Stanford University
Texas Tech University
University of Michigan International Center
Purdue University
University of Pennsylvania
Louisiana State University and Agricultural and Mechanical College
Washington University
University of California, Davis (2)
Institute for Advanced Study, Princeton
Dawn Aeronautics, Inc.
The University of Chicago
Indiana University
The University of Alabama
The University of Texas Health Science Center at San Antonio
Spanish Heritage
International Flight Center, Inc.
The British Council
National Institutes of Health
Rotary Youth Exchange—Northern California, District 5160
The University of Tennessee—Knoxville
Sangamon State University
Luther College (2)
American Camping Association, Inc.
Fragomen, Del Rey & Bernsen, P.C. (on behalf of Manhattan Institute of Management)
Educational Commission for Foreign Medical Graduates
Yale University
Florida Atlantic University
Immigration and Naturalization Service
Girl Scouts of the United States of America
Sierra Academy of Aeronautics
Blue Cross—Blue Shield of Virginia
Blue Cross—Blue Shield Association
American Council on International Personnel
Little America Hotel
American Federation of Labor and Congress of Industrial Organizations
Jordan Schulte & Burchette (on behalf of the Ad Hoc Committee of Flight Training Schools for International Exchange)
Richard L. Fruchterman, Jr.
Association of American Medical Colleges
Association of American Universities
NAFSA—Association of International Educators
The Pennsylvania State University (2)
Mitchell Black
The Maine Teen Camp (2)
Merry Lymn, Esq.
International Exchange Association/The Liaison Group for International Educational Exchange
University of Virginia
International Exchange Association
Fiorello H. LaGuardia Community College
The University of Georgia
Duquesne University
University of California, Berkeley
Killooleet
National Association of Independent Schools (NAIS)
University of Hawaii
New York University (2)
Carnegie Mellon University
University of Southern California, Los Angeles
Woodberry Forest School
Camp Winnebago
Southern Illinois University at Edwardsville
The City University of New York
Columbia University in the City of New York
Rotary International, District 5030 Youth Exchange Comm.
Texas A & M University
University of Kentucky

[FR Doc. 93–5900 Filed 3–18–93; 8:45 am]

BILLING CODE 8230–01–M

federal register

Friday
March 19, 1993

Part III

Department of Commerce

National Telecommunications and Information Administration

National Endowment for Children's Educational Television; Notice of Fund Availability

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket No. 930231-3031]

National Endowment for Children's Educational Television; Fund Availability

AGENCY: National Telecommunications and Information Administration (NTIA), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The National Endowment for Children's Educational Television ("the Endowment") hereby gives notice of the availability of funds for the purpose of enhancing the education of children through the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.

Congress has appropriated to date a total of $3 million for the Endowment. NTIA anticipates that in FY 1993 the Endowment will fund up to ten grant awards, depending on the nature of the projects and the need of the recipients. It is further anticipated that the Endowment's Federal awards will range from $10,000 to $1 million. The 1990 Act provides that the Department may award funds up to 75 percent of eligible project costs.[1] Due to the limitation of available funding, however, applicants are encouraged to provide as much outside funding as is feasible.

DATES: The closing date for submission of all Endowment Preliminary Applications (Pre-Applications) for the 1993–1994 grant cycle is May 5, 1993. Pre-Applications must be received at the Endowment office no later than 5 p.m., May 5, 1993, whether mailed or hand-delivered. Endowment Applications must be received at the Endowment office no later than 5 p.m., July 28, 1993. Detailed application packages can be obtained from the contact person named below. NTIA anticipates that the funding instrument will be grants and that the first Endowment grants will be awarded in the fall of 1993.

FOR FURTHER INFORMATION CONTACT:

Dennis R. Connors, Associate Administrator, National Endowment for Children's Television, NTIA/DOC, 14th Street and Constitution Avenue, NW., room H–4625, Washington, DC 20230; telephone: (202) 482–5802 FAX: (202) 482–2156.

[1] 47 U.S.C. 394(d) (1991).

Section I: Background of the Endowment and Major Goals

A. The Authorizing Legislation

The Children's Television Act of 1990 ("the 1990 Act")[2] represents an attempt to increase the number of educational television programs available to our nation's children and to improve the quality of such programming. The 1990 Act has three major components:

- The placement of advertising limits on children's television programs;
- The encouragement of additional children's programming on commercial television stations by ensuring that children's programming availability be considered in licensing renewals; and,
- The establishment of a National Endowment for Children's Educational Television ("the Endowment") that would provide money to fund quality children's television programs and related activities.

The Congress directed that the Secretary of Commerce ("the Secretary") administer the new Endowment.[3] The Secretary in turn has delegated this responsibility to the Assistant Secretary for Communications, who serves as the Administrator of the National Telecommunications and Information Administration (NTIA).[4]

B. Basic Endowment Themes

Endowment funds are to support the creation and production of television programming specifically directed toward the development of fundamental intellectual skills.[5] In doing this, the Endowment's efforts are intended to supplement to children's educational programming funded by other governmental entities.[6]

The 1990 Act further stipulates that Endowment-funded programming for the first two years following project completion may be offered for distribution only to public television stations.[7] During this period, however, the programming may be distributed through other media, not involving broadcast or cablecast; *e.g.*, computer interactive systems or video cassettes.

After the initial two-year period, Endowment-funded programs are to be made available to commercial media as well, including not only commercial broadcast television networks and stations, but also cable television networks and systems.

The 1990 Act authorizes the Secretary, under certain circumstances, to modify some aspects of these distribution requirements.[8]

The 1990 Act also reflects the Congress' concern that current financial incentives for commercial stations to create and air high-quality children's educational television programs may be insufficient.[9] This is because such programming is often extremely expensive to produce. One Congressional motive in establishing the Endowment, then, was to ensure that commercial entities would have at their disposal a growing pool of high-quality programming appropriate for a children's audience and available at an affordable cost. Accordingly, the 1990 Act authorizes the Secretary to offer Endowment-funded programs to commercial television stations and cable television systems at a rate designed to encourage these entities to air such programming.[10]

At the same time, the legislative history of the 1990 Act states that Endowment grant recipients shall retain continuing rights to the programming they created with Endowment assistance.[11]

The legislative history of the Endowment also indicates that Endowment-funded programming should receive the broadest possible distribution, and to further that goal, that the Secretary should ensure that, in setting price schedules, Endowment recipients be accorded adequate financial incentives to make their efforts worthwhile.[12] In addition, although the 1990 Act specifically calls for programs primarily intended for over-the-air television broadcast, it quite clearly also envisions the broadest possible distribution of Endowment-funded programming. The 1990 Act recognizes that there exist today many diverse ways to reach children and that all should be called upon to disseminate these programs.

In awarding its grants, the Endowment may support all the varied tasks associated with the production of children's television. This includes—but is not limited to—preparing scripts, performing research of children's needs,

[2] Public Law No. 101–437. 104 Stat. 996 (1990) (codified at 47 U.S.C. 394 (1991)).

[3] 47 U.S.C. 394(b) (1991).

[4] The Secretary's delegation to NTIA is found in Department Organization Order 10–10, as amended. NTIA was established by Executive Order 12046 in 1978. NTIA's functions were codified in the NTIA Organization Act, which became law as part of the Telecommunications Authorization Act of 1992, Public Law No. 102–538, 106 Stat. 3533 (1992).

[5] 47 U.S.C. 394(a) (1991).

[6] Pub. L. No. 101–437, 202(6), 104 Stat. 996, 998 (1990).

[7] 47 U.S.C. 394(b)(2) (1991).

[8] *Id.*

[9] S. Rep. No. 101–66, 101st Cong., 2d Sess. 17, reprinted in 1990 U.S. Code Cong. & Ad. News 1628, 1644.

[10] 47 U.S.C. 394(b)(2)(B) (1991).

[11] 136 Cong. Rec. S10123 (daily ed. July 19, 1990).

[12] *Id.*

initiating new productions, and, possibly, even completing productions for which substantial funding is already in place. The Endowment may fund projects that would create an entire series or just produce an individual show. It might fund a project that would result merely in the preparation of an idea for a script, or that would perform research on some important subject germane to the Endowment's objectives. For the purposes of this grant cycle, project eligibility is not being limited to any particular stage of production or type of activity provided it is germane to the production of children's television programming that furthers the goals of the 1990 Act.

C. Major Objectives

For the FY 1993 grant round, the Endowment has three major objectives that applicants should consider carefully when preparing their projects.

Objective One: To Improve the Fundamental Intellectual Skills of Children Through the Vehicle of Television Programming

NTIA understands that the expression "fundamental intellectual skills" may be defined in a number of ways. For the purposes of this program, however, the term refers to the development of those skills which enable children to address the problems posed by the modern world. Such skills might be basic educative functions (*e.g.*, reading, writing, and arithmetic), or they might consist of more advanced capabilities (*e.g.*, problem-solving and cognitive recognition abilities).

In addition, applicants are encouraged to incorporate pro-social behavior and relationships within the context of these skills in their projects. This includes such areas as motivation and self-esteem, self-development, multiculturalism, and the special needs of children.

Moreover, the term "fundamental intellectual skills", as the Endowment understands it, is not meant to be restrictive. We will leave it to the applicants to decide which skills they wish to enhance and which creative approach might be most conducive to this enhancement. NTIA recognizes that effective educational television includes an entertainment element. NTIA therefore appreciates that Endowment applicants will generally want to build this factor into their project design. Nonetheless, applicants must demonstrate to the Endowment that their project will, above all, meet this first, comprehensive educational major goal in a significant way.

Objective Two: To the Extent Feasible, To Support the Development of Programming for Children Aged 6 to 8

Although there is a need for high-quality educational programming for children of all ages, the Endowment has concluded that the six- to eight-year-old child is currently the most underserved by educational television programming and deserves special consideration for this first grant round. According to the 1990 U.S. Census, there are a total of 10,732,061 children in this age group. In light of this emphasis, projects that meet the needs of this particular age group are more likely to receive funding than projects centered on other age groups.

NTIA emphasizes that the Endowment will not automatically reject projects designed for other age groups. Nonetheless, if the Endowment receives a sufficient number of highly competitive proposals focused on the needs of six- to eight-year-olds, it is to be expected that the competitiveness of projects directed at other age groups will diminish.

In future grant rounds the Endowment may emphasize projects designed for different age levels.

Objective Three: To Consider a Broad Range of Subject Areas for Funding

While the Endowment is concentrating on the production of programming for children aged 6–8, the program is nonetheless imposing no limits on the scope of the proposals that may be submitted for funding consideration. In selecting the goals for their projects, applicants may choose to encompass a broad array of targeted skills. Alternatively, they may choose to center on a single perceived learning need.

Section II: Evaluation Criteria

Each Application will be thoroughly evaluated prior to the awarding of grants. No guidance or technical assistance for NECET program officials can be expected during the evaluation process. In determining whether to approve an Application, in whole or in part, and the amount of such grant, NECET will evaluate all of the information in the Application and consider the following factors, each of which has equal weight.

A. Conformance with Major Objectives

Applicants must satisfy Endowment reviewers that their project will further the major objectives listed above in section I, part C.

B. Creativity

The project must display a high degree of creativity and, ideally, be innovative in its approach.

C. Project Thoroughness

Ambitious video production projects tend to be complicated and so Endowment applications must be meticulously thought out. For example, to the extent feasible, the application should make clear what reception the proposed project will receive from the intended dissemination outlets. Another illustration of thoroughness: The proposal's timetable and budget should be detailed and accurately reflect the needs of the project. Still another: The project's approach should be in conformance with the findings of recent research as to the effectiveness of that approach in achieving educational goals.

D. Applicant Capability

Applicants need to indicate why the Endowment may be confident that they will be able to complete the proposed project satisfactorily. Applicants may demonstrate their capability in various ways, such as experience, a well-developed plan, or the submission of creative and innovative ideas.

E. Evaluation of Educational Objectives

Applicants are encouraged to demonstrate the effectiveness of their projects through a documentation of their approach to evaluation. The evaluation plans can take the form of educational effectiveness and/or developmental appropriateness. It is, however, up to the applicant to decide which approach is appropriate for the submitted project. The following is provided for guidance.

1. Educational Effectiveness

The best-intended productions for children may fail to convey their educational message. Some plan for evaluation of educational effectiveness may be a part of a production effort. Evaluation of educational effectiveness may occur at two stages: During the planning and early production stages and once the program is completed. Evaluation during the early production stage can serve the purpose of confirming that the project is heading to its planned goals; evaluation after the program is completed can serve the purpose of determining whether future programs should repeat the general content and format or if modifications are needed. Applications should indicate how the project will be evaluated. The plan should be appropriate for the scope of the project.

and might include such elements as test groups and screenings for educators.

2. Developmental Appropriateness

One of the attributes of quality educational programming is its sensitivity to the developmental level of its target audience. Children of difference ages have quite different educational needs and capacities. The applicant could demonstrate sensitivity to and knowledge about the educational needs and development level of the target audience. The plan could show evidence of knowledge of the educational needs of the target age group and the plan for presenting the information could demonstrate knowledge of the cognitive and social levels of development typical of that age group.

F. Breadth of Potential Program Distribution

As mentioned above, the 1990 Act intended that Endowment-funded programming be distributed as widely as possible. The applicant will thus be judged in part on how well this objective is met. Not only application narratives, but also project budgets should reflect this consideration. The budgets should indicate the most likely forms and methods of distribution that would be applicable to the project.

G. Ancillary Materials and Outreach Activities

Ancillary materials and outreach activities for children's educational television programs can be useful in helping them achieve their maximum effectiveness. Applicants are encouraged to develop ancillary materials and outreach activities when appropriate to their projects, and they should indicate their plans in their applications.

The intent of these ancillary documents is to support the educational objectives of the project. Typically, they are developed in consultation with advisors, including educators, content specialists, and creative consultants. They often provide lesson guides or discussion-provoking questions appropriate for each program. They might also contain background material that will clarify the program's subject matter, stimulate the viewer's thinking about the relevant issues, and inspire a greater appreciation of the program's content.

Outreach may include general activities and materials for children, the educational community, and adults who work with children. These activities may take the form of community service projects, workshops, field trips, discussion groups, seminars, or meetings with children, parents, and teachers. They may also include such materials as posters, activity books, brochures, and craft projects.

Section III: Proposal Submissions and Types of Funded Projects

A. Pre-Applications and Applications

Pre-Applications

A Pre-Application is required of all applicants. It consists of a Standard Form 424 plus a summary of the general nature of the proposed project running no longer than two pages. Detailed instructions for what is included in a Pre-Application submission will be found in the Endowment's *Application Guidelines* booklet.

During the Pre-Application screening, the Endowment staff will review basic information concerning proposed projects. It is anticipated that this process will develop valuable information about the potential of the Application for funding. During the period of Pre-Application the Endownment staff will analyze the material submitted and provide general advice concerning the project's competitiveness. Although Endowment staff will offer general suggestions about how to prepare a strong application, applications must not expect the staff at this point to provide precise technical assistance as to how the project in question might be strengthened so as to become a "sure winner".

Applications

An Application is required of all applicants. It consists of required forms, six sections of additional information, and five exhibits.

B. Number of Projects To Be Funded

The Endowment hopes to provide a significant portion of its funds for the production of major series or individual programs. The eventual levels of funding will of course be determined by the number of applications received, the quality of those applications, and the demonstrated needs of the applicants. Nevertheless, it is conceivable that, during this funding cycle, two or three "major series" projects might be funded at up to $1 million each. Such awards might be used either to initiate a production requiring substantial future funding from other partners or to complete a project well underway thanks to funding from other sources.

The Endowment, however, will also consider supporting projects that would produce an individual program. These might receive funding within a range of $100,000 to $250,000. Depending on the variables noted in the paragraph immediately above, one or two such projects might be funded in the current grant round.

Finally, NTIA realizes that all areas of children's television production need to be nurtured if we are to be the beneficiaries of a steady stream of creativity on the subject. The Endowment might therefore fund some preliminary projects involving planning, scripting or research that leads to production. Depending on what other projects are funded, up to five projects in this category might be supported, each within a funding range of $10,000 to $75,000.

The grant award period will necessarily vary with the complexity and scope of the project, but it is assumed that a majority of awards will be for eighteen to twenty-four months.

Section IV: Eligibility, Standards, and Required Clearances

A. Applicant Eligibility

Any individual, partnership, association, joint stock company, trust, corporation (not-for-profit or for-profit), or state or local governmental entity.

B. Project Eligibility

Any project that meets the intent of the Children's Television Act of 1990, title II (Public Law 101–437).

C. Program Standards

Endowment-funded programming must meet broadcast-quality production and technical standards. The programs may not have any commercials within them, or any commercial breaks.

D. Rights, Clearances, and Distribution

Generally, copyright laws preclude the copying or use of works of authorship without the author's permission. Accordingly, the Endowment is requiring that all completed creative works supported by it have appropriate clearances, releases, or other documentation showing that the organization or individual producing the programming either has obtained rights for the use of all elements in the programs or has itself originally created the work. These rights and clearances apply to all elements of such programming and must be the ones required in order to be able to accomplish the distribution planned for the project, and to comply with the requirements of the 1990 Act.

Applicants should note that they will need to obtain an option on any material critical to the successful completion of their projects before they apply to the Endowment, unless all such material

has already been cleared or is entirely original with the applicant.

The Endowment shall receive a funding ("underwriting") credit whenever an Endowment-funded program is transmitted to the public.

General Information

Past Performance

Unsatisfactory performance under prior federal financial assistance awards may result in an application not being considered for funding.

Preaward Activities

A grant award's final total project cost (TPC) will be determined after review by, and negotiation with, NECET. The final TPC may be less than the applicant initially proposes. While applicants are permitted to obligate their matching funds during the period from the closing date to the award start date, serious problems may result if an applicant obligates too great a portion of the project funds before an award is made. Money is obligated when the applicant enters into any sort of binding commitment to spend the money.

If applicants incur any costs prior to an award being made, they do so solely at their own risk. Applicants are hereby notified that notwithstanding any verbal assurance that they may have received, there is no obligation on the part of DOC to cover pre-award costs.

Applicants wishing to obligate any project funds before the award start date should consider the following:

1. An applicant cannot obligate funds from the eventual Federal share of a grant's TPC before a grant is formally awarded.

2. An applicant that obligates more than its matching share before a grant is awarded faces two main risks:

- A grant may not be awarded; or,
- Negotiations may reduce the amount of the TPC, and if the applicant has obligated funds in excess of the negotiated match, the Federal share will be reduced correspondingly.

No Obligation for Future Funding

In the event that an application is chosen 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.

Delinquent Federal Debts

No award of federal funds shall be made to an applicant who has an outstanding delinquent federal debt until either:

1. The delinquent account is paid in full,

2. A negotiated repayment schedule is established and at least one payment is received, or

3. Other arrangements satisfactory to the Department of Commerce are made.

Intergovernmental Review

Executive Order 12,372, "Intergovernmental Review of Federal Programs" applies to the applications invited by this notice. (The requirements imposed by E.O. 12,372 are explained in Exhibit D of the Application Guidelines.)

Name Check Review

All 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.

Primary Applicant Certifications

All applicants must submit a completed Form CD–511, "Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." These are explained below.

1. Nonprocurement Debarment Suspension

Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurements Debarment and Suspension."

2. Drug Free Workplace

Grantees are subject to 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants).

3. Anti-Lobbying

Persons are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain federal contracting and financial certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000.

4. 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.

Lower Tier Certifications

Grantees 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 from, SF–LLL submitted by any tier recipient or subrecipient contained in the award document.

False Statements

A false statement on an application may result in denial or termination of funds, and possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Federal Policies and Procedures

Recipients are subject to all applicable federal laws and federal and Department of Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

Definitions

The following definitions apply to the words and phrases used in this Notice.

Ancillary Materials means items that are developed in various forms such as printed booklets, videocassettes, audio cassettes and video discs which accompany educational television programs and are meant to support or complement the content or learning objectives of the programs.

Basic Skills means those skills that enable an individual to adequately perform such fundamental intellectual tasks as reading, writing, mathematics, and related activities.

Children, as defined by the statute, means individuals sixteen years of age and younger.

Children's Television Act of 1990 means Public Law No. 101–437, 104 Stat. 996, (1990) (codified at 47 U.S.C. 394 (1991)). This statute established the National Endowment for Children's Educational Television (NECET).

Cognitive Skills means those skills that are based on an ability to reason, to think critically, and to acquire knowledge about ideas.

Commerce means the United States Department of Commerce.

Commercial Television Station means a television broadcast station that is eligible to be licensed by the FCC as a commercial television broadcast station and that is owned (controlled) and operated typically by a for-profit entity, and may transmit commercial announcements and commercially-sponsored programs as well as non-commercial programs.

Eligible Costs means any expenses associated with the research, planning, scripting, development and production or other aspects of a NECET program proposal.

Facilities means apparatus such as cameras, microphones, amplifiers, animation equipment, and videotape machines necessary for the production of video programs that need to be prepared for distribution through broadcast television and other forms of media.

Fundamental Intellectual Skills means the development of those skills which enable children to address the problems posed by the modern world. Such skills might be basic educative functions (*e.g.*, reading, writing, and arithmetic), or they might consist of more advanced capabilities (*e.g.*, problem-solving and cognitive recognition abilities). These skills may be acquired through subject matter area such as those listed below.

- Science
- History and Government
- Literature and the Arts
- Health and Nutrition
- Economics/Consumerism

—Business
—Career choices
—Media/Communications/Technology

- The World/Globalization

—Current events
—Ecology/Environment
—Geography

In-School Programs means educational materials provided through various means, such as television and video, that are typically incorporated into classroom instruction or other school settings.

Interactive Computer Skills means those skills that are based on an ability of an individual to effectively send and retrieve information and otherwise communicate with distant sources via computer-based technologies.

National Telecommunications and Information Administration (NTIA) means the agency within the U.S. Department of Commerce that serves as the President's principal adviser on telecommunications policies pertaining to the nation's economic and technological advancement and to the regulation of the telecommunications industry. The NTIA was established by Executive Order 12046, March 27, 1978. The Secretary's delegation of the National Endowment for Children's Educational Television to NTIA is found in Department Organization Order 10–10, as amended. NTIA's functions were codified in the NTIA Organization Act, which became law as part of the Telecommunications Authorization Act of 1992, Public Law No. 102–538, 106 Stat. 3533 (1992).

National Endowment for Children's Educational Television (NECET) means the entity established by the Children's Television Act of 1990 (Pub. L. 101–437), and administered by the Secretary of Commerce, that has as its primary goal the creation and production of children's television programming that is specifically directed toward the development of fundamental intellectual skills.

Non-commercial Television Station means a television broadcast station that is eligible to be licensed by the FCC as a non-commercial educational television broadcast station and that is owned (controlled) and operated by a state, political or special purpose subdivision of a state, public agency or non-profit private foundation, corporation, institution or association, or owned (controlled) and operated by a municipality, and transmits only non-commercial educational, cultural or instructional programs.

Outreach Activities means events, meetings, materials or projects that are related to educational television programs, are often initiated in cooperation with educational institutions and community organizations, and are meant to supplement the television programs.

PBS means the Public Broadcasting Service, the member organization of public television stations, which provides a number of programming and operational services, such as satellite distribution, to the stations that are eligible and pay membership fees.

Preliminary Application/Pre-Application means a presentation of up to two pages that summarizes and provides a description of a proposed project for one or more of the various aspects involved in the creation of children's educational television, such as planning, research, scripting, development and production.

Producer means any organization or individual preparing or submitting a Pre-Application and Application.

Public Television Station means a non-commercial television broadcast station that transmits non-commercial educational and cultural programs, and in many cases may also transmit instructional programs, and is normally a member station of the Public Broadcasting Service (PBS).

Research means those activities associated with the extensive investigation and systematic inquiry into a subject area in order to discover factual information.

Satellite Distribution means telecommunications methods using satellite earth station(s) to originate and receive electronic signals to disseminate programs.

Scripting means the creative process of conceiving and writing a television project in a form that follows the usual method of preparing a television program script, that can be developed into a television production.

Secretary means the Secretary of Commerce.

Series means a number of television programs, included in the same project, that may have as few as three programs in what is described as a mini-series, or as many as 365 programs in a one-year period that could potentially be used every day. Programs may typically be approximately one-hour or a half-hour in length, or may be approximately twenty minutes or less if used as in-school programs.

Dated: March 10, 1993.

Thomas J. Sugrue,

Acting Assistant Secretary for Communications and Information.

[FR Doc. 93–6043 Filed 3–18–93; 8:45 am]

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federal register

Friday
March 19, 1993

Part IV

Department of Transportation

Coast Guard

33 CFR Part 1
46 CFR Parts 10 and 12
User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

46 CFR Parts 10 and 12

[CGD 91–002]

RIN 2115–AD72

User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation

AGENCY: Coast Guard, DOT.
ACTION: Final rule.

SUMMARY: This final rule establishes user fees for Coast Guard services related to merchant marine licenses, certificates of registry, and merchant mariner's documents (MMD). The fees in this rule are based on the way the Coast Guard presently conducts the merchant marine licensing and documentation activities and the costs of providing these services at the Coast Guard Regional Examination Centers (REC).

EFFECTIVE DATE: This rule is effective on April 19, 1993.

FOR FURTHER INFORMATION CONTACT: LT J. K. Gillespie, Planning Division (G–MP–1), Office of Marine Safety, Security, and Environmental Protection, (202) 267–6923.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are LT J. K. Gillespie, Project Manager, and LT R. L. Hetzel, Project Counsel, Office of Chief Counsel.

Regulatory History

On June 20, 1991, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "User Fees for Marine Licensing, Certification of Registry and Merchant Mariner Documentation" in the **Federal Register** (56 FR 28448). The 45-day comment period closed on August 5, 1991.

Several persons requested additional time to comment, citing the reason that members of the merchant marine are often away from their home port for 30 days or more and a 45 day comment period provided insufficient time to allow for their participation. Further, the Coast Guard determined that a 45 day comment period may have been insufficient notice for industry publications to notify their readers of the opportunity to comment on the proposed rule. Other persons requested additional time in view of other Coast Guard user fee proposed rulemakings related to commercial vessels.

Many persons in the marine industry both own and operate their vessels. Inspection and licensing fees would be the most significant portion of Coast Guard fees impacting persons owning and operating inspected vessels. To allow these persons opportunity to comment on the cumulative impact of both the inspection and licensing user fees rules, the Coast Guard determined that reopening the comment period coextensive with the initial comment period for the NPRM entitled "Direct User Fees for Inspection or Examination of U.S. and Foreign Commercial Vessels" (CGD 91–030) would prove beneficial to this rulemaking. Because of the above reasons, the comment period was reopened on December 18, 1991, for 60 additional days. This second comment period closed on February 18, 1992.

Before preparing this final rule, the Coast Guard considered all comments received during both comment periods and comments received during the interim period from August 5, 1991, until December 18, 1991. The Coast Guard received over 3,000 individual letters commenting on the proposal, and an additional 15 petition-type letters bearing approximately 1,600 signatures. The majority of comments were submitted by individuals who indicated they hold a license, certificate of registry, or MMD. The Coast Guard also received many comments from merchant marine academy students or representatives of these academies; as well as from union, maritime association, or marine industry representatives. Some comments were also received from Federal Government agencies and representatives of not-for-profit organizations.

The written comments originated from every region of the country and addressed a wide variety of issues relating to the NPRM. Many comments merely expressed opposition to the statute or to the Coast Guard establishing fees for merchant marine licensing services. Though reopening of the comment period added a substantial number of additional comments, no new substantive issues were raised.

Several hundred comments requested that public hearings be held. The Coast Guard considered the requests for public hearings, but determined that, whereas receiving oral presentations at public hearings would increase the number of comments, the hearing process would not materially assist in development of the final rule.

Background and Purpose

The Omnibus Budget Reconciliation Act of 1990 (the Act) amended section 2110 of title 46, United States Code, to remove long-standing prohibitions against collecting certain user fees. Although section 2110 did not prohibit the Coast Guard from charging fees for services related to issuing MMDs prior to amendment by the Act, it did prohibit fees for "licensing of masters, mates, pilots, and engineers." The Coast Guard had not chosen to exercise its existing authority to charge just those mariners receiving MMDs out of all those receiving Coast Guard marine licensing services.

Section 2110 now requires the establishment and collection of user fees for Coast Guard services provided under subtitle II of title 46, United States Code. The Coast Guard must establish these fees in accordance with the criteria in section 9701 of title 31, United States Code (General User Fee Statute). The fees would not affect current Coast Guard appropriations, but would rather "be deposited in the general fund of the U.S. Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities."

Marine licensing and merchant mariner documentation is one of the program areas in subtitle II for which fees must be established. To comply with this congressional mandate, the Coast Guard is amending 46 CFR parts 10 and 12 to establish user fees for Coast Guard services relating to the issuance of merchant marine licenses, certificates of registry, and MMDs. Fees for other Coast Guard services in subtitle II of title 46, United States Code, will be established in separate rulemakings.

Discussion of Comments and Changes

General Comments

Only a few comments supported the concept of charging fees for these Coast Guard services. The majority of comments objected to any fee being charged, and many stated the view that the general public receives the benefit of the licensing program, and not the mariner who is required to obtain the license, certificate of registry, or MMD.

The Coast Guard acknowledges that its marine licensing program serves to indirectly enhance general public safety and to protect the environment on or near U.S. waters through establishment of minimum qualification requirements for professional mariners. However, the Coast Guard's position is that its licensing program does confer special benefits upon those who hold a license, certificate of registry, or MMD. The Coast Guard has determined that it is appropriate to establish fees for services provided to these individuals.

By establishing minimum requirements that limit persons who would be eligible to obtain and hold a marine license, certificate of registry, or MMD, the recipient receives a credential that inherently enhances employment potential. Therefore, the Coast Guard licensing program confers special benefit upon the individual holding the credential since the licensing program essentially excludes the majority of the general public from employment in many positions within the merchant marine industry.

Not only does the licensing program limit the number of potential employees competing for available positions, but it ensures that mariners possess certain qualifications in order to be eligible for the license, certificate of registry, or MMD. This is a mutual benefit to each individual mariner. The Coast Guard licensing program assures mariners that others they work alongside in the industry meet certain basic requirements such as age and citizenship, and, in most cases, that they meet minimum experience or training requirements, and have passed a professional examination. Also, through background and criminal records checks, and physical examination requirements, certain persons are excluded from the industry. The Coast Guard may deny applicants these credentials if they have been convicted of a violation of a dangerous drug law, or if there is evidence of drug abuse, and in cases where applicants have physical impairments or medical conditions which would render them incompetent to perform their ordinary duties. Though they are less tangible, there are special benefits related to personal security and peace of mind of the individual mariner. The Coast Guard does serve as a type of "professional licensing" body which should give a degree of assurance to individual mariners concerning other mariners who work for them and around them.

Many comments stated they would not object to the proposed fees if the money went directly to the Coast Guard or was used to improve the Coast Guard marine licensing services. However, the direct user fees required under 46 U.S.C. 2110(a) must be deposited in the general fund of the Treasury. Unless a statute specifically provides otherwise, fees received by a government entity are deposited in the Treasury. User fees are "ascribed to Coast Guard activities" merely to indicate the source of the funds being deposited. Although the specific amount of fees deposited would not directly increase the Coast Guard's current operating funds, Congress takes these fees into consideration during its budget development and approval process. This arrangement allows the Coast Guard to plan its operations based on current appropriations, without being dependent upon the actual amount of fees collected in a particular fiscal year.

Though the fees will not be used directly to enhance the Coast Guard's marine licensing program, the Coast Guard remains committed to improving the services it offers. Many comments provided suggestions as to how the Coast Guard might improve its marine licensing services. Those comments provided useful feedback to the Coast Guard and will be considered for future program changes.

Besides the aforementioned general reasons, many other comments objected to the fees based on perceptions regarding impacts of the fees. Many expressed concerns that the fees might cause adverse economic impact and hardship, either to the marine industry, or to the individual mariners. Many comments alluded to the poor economic health of the marine industry and to the economic hardships that many mariners currently face. Some comments also expressed uncertainty as to whether the fees may deter persons from entering the professions for which licenses or documents are required, or that they may discourage mariners from seeking license endorsements, upgrades, or renewals. The Coast Guard considered these views during the preparation of its Regulatory Evaluation. Conclusions from the Regulatory Evaluation are provided later in this preamble.

Exemptions

Under 46 U.S.C. 2110(g), the Coast Guard may exempt a person from paying fees if it is determined to be in the public interest to do so. In the NPRM the Coast Guard did not propose any exemptions, but invited comments on exemptions that could be in the public interest. Numerous comments supported a wide range of exemption categories. The main categories mentioned in the comments included exemptions for: Retired or non-sailing license-holders; entry level persons; students of merchant marine academies; incentive for reserve programs for national defense reasons; government employees; members of the Coast Guard Auxiliary; and volunteers or employees of not-for-profit organizations. With the exception of the not-for-profit category, the Coast Guard has decided against creating any exemptions from paying the fees. Each of these categories is discussed below.

National Defense Exemptions

A large number of comments suggested broad exemptions be made for national defense reasons. Many expressed concern that fees would prove to be a disincentive to persons in maintaining a license or MMD, thereby reducing the "pool" of qualified persons available during times of national emergency.

A comment from an agency under the Department of the Navy stated the following: "The availability of mariners to man our Ready Reserve Fleet (RRF) ships was marginally adequate for Persian Gulf operations, and manning projections predict shortages. We believe that the proposed fee structure would keep many otherwise available mariners from renewing their licenses." The comment recommended several exemption categories, namely, "for those mariners, employed temporarily or permanently ashore, who choose to participate in a merchant marine reserve program requiring the maintenance of a merchant marine license, certificate of registry, or merchant mariner's document * * * A similar exemption or reduction in fees should be made for federal and state maritime academy graduates having reserve obligations, as well as for those who join a merchant marine reserve program." Another concern was that fees may impact unfairly on retired mariners and that an important source of emergency manning may be lost, referring to the recent Persian Gulf operations for which it was estimated that between 10 and 20 percent of the mariners manning the RRF ships came out of retirement to do so.

Other comments recommended similar exemptions for mariners who choose to participate in a civilian merchant marine reserve program.

A few comments opposed exemptions for persons not actively employed aboard vessels, suggesting that it is not in the best interest of our national security to maintain a pool of persons who are license-holders, because many would still not be qualified to fill the positions needed. One comment stated: "* * * there should be no exemptions of certain persons from fees if in the public interest. The NPRM states that it might be in the public interest to have a 'pool' of qualified persons available during times of national emergency. The key word here is 'qualified.' Simply because a person holds a valid merchant mariner's document and/or license does not make said person qualified to do the job * * * The 'pool' will shrink, but at least it will be more realistic." A comment from an educator working in

a maritime training school included a similar objection and stated that their school is "constantly upgrading modules to keep members, who are actively employed in a large segment of our merchant fleet, current with the latest technology." The Coast Guard agrees that holding a license or MMD does not qualify an individual for any specific job, but rather indicates that person has met Coast Guard-established minimum qualifications.

In the NPRM, the Coast Guard asked if it is in the public interest to have a "pool" of qualified persons available during times of national emergency, and, if so, should exemptions from the proposed fees be established to encourage participation in a merchant marine reserve program? It appears that the real issue actually resides in the questions of what level of qualification is necessary, and to what degree of participation and commitment in a reserve program would an exemption from fees be justified? The Coast Guard recognizes these questions embody a much broader issue than can be adequately addressed in this rulemaking, one which may require the Coast Guard or Congress to consider "National Defense" exemptions in the future.

Maritime Academy Student Exemptions

One agency suggested specific exemptions for midshipmen attending the U.S. Merchant Marine Academy (USMMA) and cadets attending the State maritime academies. These maritime academy students obtain a MMD for gaining initial sea experience, and they obtain an upper level license close to the time they graduate. Passing the Coast Guard examination and obtaining a license is a current USMMA graduation requirement, and passing the Coast Guard examination will become a federally mandated requirement for the State academies beginning in 1994.

In its comments, this agency stated that since the USMMA is operated like other Federal academies (military academies), there should be " no costs borne by the midshipmen." This agency further stated that it would be forced to request an increased appropriation from Congress to pay for both the MMD and the original licensing fees for midshipmen attending the Federal academy, if midshipmen were not exempted from the user fees. However, midshipmen have individual expenses that are not now covered by the agency. The Coast Guard's position is that the cost for a MMD and license should be viewed as an additional individual expense rather than an educational expense, such as tuition, to be covered by the agency. Furthermore, it is unclear at this time whether the agency would be able to justify paying the new MMD and license fees for these cadets if appropriations were sought for that purpose.

Further, a fee exemption only for USMMA midshipmen would raise an equity issue between those students and students attending the State academies who would have to pay the fees. Because there are students who would be subject to fees attending other professional training institutions such as union schools, there would still be an equity issue even if cadets attending the State academies were exempted from the fees. The Coast Guard's position is that students directly benefit from the service the Coast Guard provides. Not exempting students from fees is consistent with the view that MMDs and licenses provide primary benefits to the individual, with attendant costs being the responsibility of the individual, similar to requirements for obtaining other professional licenses when an individual graduates from a college or technical school. The Coast Guard concludes that it would be inappropriate to exempt maritime cadets and other students from these fees.

Some comments suggested that the Coast Guard reduce its fees for students when an institution assists in preparing the students' applications, or provides other services to facilitate the MMD or licensing process. The Coast Guard's position is that an institution chooses to facilitate the MMD or license process to benefit the students or the institution's own schedule. The Coast Guard is staffed to provide all the services related to MMDs and licenses currently issued. If an institution chooses to continue to assist preparing applications or perform other functions which may expedite the MMD or licensing process for its own purposes, this will not result in a reduction or waiver of the fees since the Coast Guard's workload will not be substantially changed.

Government Employee Exemptions

One agency requested exemptions for the crew of its public vessels. The agency commented that in the "Inspection and Certification Agreement" with the Coast Guard dated July 18, 1969, it "agreed to comply with Coast Guard regulations to the extent possible, even though as public vessels the vessels and crew would otherwise be exempted from these regulations." This agency requested an exemption from licensing fees for Federal employees who are actively employed as crew members on public vessels, and who are licensed solely to comply with the "Inspection and Certification Agreement."

Although the Coast Guard supports the agreement, the Coast Guard's position is that the licensing services, although providing some benefit to the agency and the general public, also benefits the individual mariner. Also, the Coast Guard has determined that it would not be equitable to create an exemption for one particular group of Federal government employees, when non-sailing Federal government employees, such as those employed by the Defense Mapping Agency, will not be exempted. Along with Federal agency employees, which include civilian and military personnel in the Coast Guard, the Coast Guard has decided not to exempt employees working in state or local governments.

Coast Guard Auxiliary Exemptions

Some comments suggested exempting U.S. Coast Guard Auxiliary members from paying these user fees. Though the Coast Guard recognizes the outstanding contribution Coast Guard Auxiliary members make to marine safety, the Coast Guard's position is that it would be inappropriate to exempt Coast Guard Auxiliary members, because a license is not required for individuals to participate in the Coast Guard Auxiliary. As discussed in the preceding section, other civilian and military personnel affiliated with the Coast Guard will not be exempt from the fees.

Youth Oriented, Not-for-profit, Charitable Organization Exemptions

Many comments suggested exempting persons operating vessels for youth oriented, not-for-profit, charitable organizations, such as the Boy Scouts of America (BSA), including Sea Scouts and Sea Explorers; Girl Scouts of the United States of America (GSA); and the Young Men's Christian Association (YMCA) of the United States of America. These organizations are involved in teaching youths maritime skills, such as boating, seamanship, and navigational skills. Many of the vessels owned by these organizations must be operated by a person who holds a license. Organization employees, as well as volunteers, need a Coast Guard license solely to operate the organization's vessels. Boating programs of these organizations might be curtailed if volunteers or employees are unwilling to incur the cost of these fees. Several comments suggested that the Coast Guard issue no-fee licenses restricted to operation of the not-for-profit organization's vessels only.

The Coast Guard agrees that it is in the public interest that persons who need a license solely to operate a vessel which is owned or operated exclusively by youth oriented, not-for-profit, charitable organizations for the purpose of teaching youths maritime skills should not be required to pay a fee for that license. The Coast Guard has a long-standing record of working with various national youth programs (Coast Guard Public Affairs Manual—COMDTINST M5728.2B), and charging fees for a license used only for operating the organization's vessel would not be in keeping with this support. Therefore, the Coast Guard has decided to establish a no-fee license which will be restricted to a specified use.

Youth oriented, not-for-profit, charitable organizations, involved in teaching youths maritime skills, may apply to the Coast Guard to be listed as an organization whose employees and volunteers are eligible to apply for this no-fee license.

Volunteers, or paid part-time or full-time employees, of listed organizations, may apply for a no-fee license restricted solely to the operation of that organization's vessels used in furthering the goals of the organization. The license would be invalid for any other use.

The applicant must meet all requirements for the no-fee license and pay any incidental expenses associated with the application process, such as a physical examination or a drug test. Holders of such a restricted license will be able to have the "restricted" endorsement removed by paying the appropriate evaluation, examination, and issuance fees which would have been required had the license been issued without the restriction.

Changes to Proposed Fees

In the NPRM, the Coast Guard indicated that proposed fees were based on current costs and the way the Coast Guard conducted the merchant marine licensing and documentation program at the time the NPRM was published.

The Coast Guard developed fees in the NPRM using information from workload analysis studies and costs associated with conducting marine licensing activities at the 17 Coast Guard RECs which provide the licensing and merchant mariner documentation services. The first cost was for personnel and associated infrastructure costs necessary to provide these services. Using information from a workload analysis study, hourly standard rates provided in the Coast Guard Standard Rate Instruction (COMDTINST 7310.1D), and the Coast Guard Staffing Standards Manual (COMDTINST M5312.11A), the Coast Guard calculated personnel and associated infrastructure costs to be approximately $5.9 million annually.

The Coast Guard will review the fees annually to determine if adjustments or changes to the fees are necessary, and it will revise these fees when costs change due to inflation, deflation, or changes in the way the services are provided.

The second cost involved collecting the fees. Both the General User Fee Statute and 46 U.S.C. 2110 allow this cost to be included in the user fee calculations. In the NPRM, the Coast Guard estimated collection costs at $300,000 annually, and indicated that when collection procedures were chosen, the Coast Guard would adjust the proposed fees if necessary. The section in this preamble titled "Collection of Fees" discusses the collection procedures that have been chosen by the Coast Guard. The Coast Guard has decided that fees will initially be collected at all the RECs, resulting in the need for eight additional field collection clerks. Though the collection costs will be slightly more than estimated in the NPRM, there is not enough of an increase to warrant a change in the fee schedule.

The third cost was for FBI criminal record checks conducted on applicants. Several comments suggested that the Coast Guard should not pass on this fee to the applicant. However, during the application process for the initial license, certificate of registry, or MMD, the Coast Guard checks the applicant's fingerprints against records of law enforcement and other government agencies. This process involves sending the applicant's fingerprint card to the FBI. To complete this portion of the background check, the FBI charges the Coast Guard $17 for each fingerprint card. Approximately 16,000 FBI criminal record checks are conducted on applicants each year, costing the Coast Guard approximately $270,000. The Coast Guard has determined that each applicant for whom an FBI check is required should pay the additional $17 fee to cover this cost.

The aforementioned three costs total approximately $6.5 million, which represents the estimated cost of operating the 17 RECs. To calculate the fees, information from the REC workload analysis study was used, as stated earlier. From this study, average transaction times per applicant were determined. This data provided information as to the amount of work performed by REC personnel while evaluating and examining applicants, and issuing licenses and MMDs. License and MMD activities were grouped into categories requiring similar amounts of time and effort. Fees were calculated according to each category identified, and are summarized in Figure 1.

FIGURE 1.—USER FEES FOR MARINE LICENSES, CERTIFICATION OF REGISTRY, AND MERCHANT MARINER'S DOCUMENT ACTIVITIES

Category	Evaluation fee [1]	Examination fee	Issuance fee	Total [2]
License				
Upper Level	$70 ($17)	[1] $150	$35	$255 ($272)
Lower Level	$65 ($17)	[3] 80	35	$180 ($197)
Radio Officer	$45 ($17)	0	35	$80 ($97)
Renewals or Endorsement	$45	55	35	$135
Continuity Endorsement [4]	0	0	35	$35
Certificate of Registry				
Chief Purser, Purser, and Senior Assistant Purser	$45 ($17)	0	35	$80 ($97)
Junior Assistant Purser, Medical Doctor, and Professional Nurse	0 ($17)	0	35	$35 ($52)
Merchant Mariner's Document (MMD)				
MMD Endorsed with Qualified Rating	$60 ($17)	40	35	$135 ($152)
MMD without Qualified Rating	0 ($17)	0	35	$35 ($52)

FIGURE 1.—USER FEES FOR MARINE LICENSES, CERTIFICATION OF REGISTRY, AND MERCHANT MARINER'S DOCUMENT ACTIVITIES—Continued

Category	Evaluation fee [1]	Examination fee	Issuance fee	Total [2]
Other Fees				
Duplicate or Replacement of License, Certificate of Registry, or MMD	0	0	35	$35

[1] An additional $17 charge for an FBI criminal record check will be added to the evaluation fee if the application is for an original license, original certificate of registry, or original MMD.
[2] Totals—without and with an FBI criminal record check.
[3] For limited examinations administered for certain licenses, the proposed examination fee is $55
[4] Applies to a renewal with a continuity endorsement issued under section 10.209(g).

Some comments suggested fee categories be tiered according to the scope of the license sought. For instance, a license having a greater tonnage or horsepower, rating should have a higher fee than a license having a lower tonnage or horsepower rating. If the Coast Guard adopted this suggestion, the comments continued, a better correlation between the fee and the applicant's ability to pay might result. However, it is the Coast Guard's position that this is not an appropriate basis upon which to establish fees.

Several comments suggested that the fee should be similar to licensing fees charged in other transportation modes; for example, airline and railroad workers, and commercial truck drivers. Others suggested that the Coast Guard charge a minimal fee, similar to that charged for a state driver's license. The Coast Guard has decided not to adopt any of the above suggestions, because of the criteria contained within the General User Fee Statute. The fees in the final rule are based on the cost to provide the Coast Guard service, as opposed to the cost to other entities for providing similar, but not directly comparable, licensing programs.

Of the fees proposed in the NPRM, only the upper level examination fee has been adjusted. The Coast Guard decided to reduce this fee because, in many cases, it would no longer be an appropriate fee for this category of license. The Coast Guard formerly operated under a policy that required all upper level examinations to be scheduled on certain days. At many RECs, persons testing for these licenses were given priority seating for these examinations, which lasted up to five days. Additionally, every person testing for a particular license was given examination sections having the same questions. This rigid schedule was necessary to ensure that no applicant acquired knowledge of the questions from persons who had taken an examination section at another time. Now, the examination modules contain different test questions and it is no longer necessary to hold persons to the former schedule.

One comment suggested that "the policy of requiring specific modules to be administered on specific days at specific times serves no purpose except to drive up Coast Guard administrative time and costs." The Coast Guard agrees with this comment. Since the NPRM was published, the Coast Guard has changed its policy and is allowing the RECs to schedule examinations in a less rigid manner. The Coast Guard acknowledges that a cost factor associated with the upper level examination fee was directly related to the duration of the examination. No longer adhering to this schedule will, in effect, allow a person to take less time in completing the examination. Now, despite having a higher degree of difficulty compared to lower level examinations, it is possible to complete the upper level examinations in less time than before. By changing its policy on scheduling upper level examinations, the Coast Guard was able to adjust the fee from $225 to $150.

In examining the difference between the two examination fees, the Coast Guard's position is that the reduced upper level fee is more reasonable. Despite the upper level examination continuing to take more time in most cases, the actual difference in the cost of administering the upper and lower level examinations should be less.

Categories of Fees

In the NPRM, the Coast Guard indicated that the process associated with obtaining a license or certificate of registry under part 10 and the process associated with obtaining a MMD under part 12 are similar, in that there are three identifiable phases in the overall process: Evaluation of the application, examination of the applicant, and issuance of the license or document. The NPRM proposed that each fee be paid just prior to receiving the service, thus ensuring that applicants are not charged for a service not provided.

Several comments suggested that the Coast Guard collect one fee at issuance, rather than collecting separate fees for the evaluation and examination phases. The Coast Guard chose to separate the process into the three phases and establish an appropriate fee for each phase to facilitate effective fee collections, as some applicants either do not complete the entire process or must repeat certain phases (e.g., examination). Applicants needing to repeat a phase will also be charged appropriate additional fees.

Although making distinctions between the three identifiable phases (evaluation, examination, issuance) in the overall process is reasonable, the Coast Guard acknowledges that it is difficult to collect and separate workload data reflecting actual time of REC personnel for each of the three phases. The Coast Guard based its program cost on a workload data analysis which appropriately reflects the cost of operating the RECs. Using separate REC task analysis data indicating average time per phase, the Coast Guard developed the fees to proportionally distribute the cost of operating the RECs within the fee structure selected.

Though some comments objected to the fee structure dividing the total expected fee among the three phases, the Coast Guard has retained the fee structure as proposed. Establishing fees which are paid prior to providing the service helps to ensure that fees are deposited into the general fund of the U.S. Treasury in a timely manner. It is also consistent with the concept that one should pay for a service as it is provided. Since an application is valid for one year, waiting to collect only one fee at the issuance phase could result in lengthy delays between the time the evaluation phase begins and the time that the applicant meets all the requirements for issuance of the license, certificate of registry, or MMD.

The Coast Guard incurs costs each time an individual is provided a service, regardless of the end result achieved by

the individual. Collecting fees in advance ensures that payments are received for services provided, even though some applicants will not be successful in acquiring the Coast Guard license or document they seek. Since the Coast Guard is establishing fees to cover costs associated with providing its services, the Coast Guard does not intend to refund fees once applicants begin a phase.

In 46 CFR parts 10 and 12, the Coast Guard proposed to define the term "evaluation" to make clear that the evaluation phase for which an applicant pays a fee is more than a review of an application form. The Coast Guard received no specific comments on this definition and has retained the definition as proposed. The evaluation fee will be paid when the individual submits the application package to the Coast Guard. This final rule establishes payment procedures for the evaluation fee and other fees described.

The next phase is examination. The Coast Guard did not propose to define the term "examination" since its use should be clearly understood within the existing and proposed regulations. The examination phase involves scheduling, proctoring, and grading examination sections, as well as notifying applicants of results.

The Coast Guard proposed that the examination fee would be paid when an applicant reserves a place on a scheduled test date for examination sections either administered at RECs, or administered at other locations by Coast Guard Traveling Examination Teams (TET). After considering several comments that suggested that it would be more convenient if payment could be made just prior to taking the first section of the examination, the Coast Guard has decided to allow a person to pay the examination fee at the REC on the test date. Since many persons must schedule the examination weeks ahead, requiring payment at the time of scheduling would be inconvenient. Examination fees, however, must be paid prior to the test date for which a TET is requested, since fees will not be collected by TET members. The final rule requires that, unless otherwise directed, the examination fee be received by the REC at least one week prior to the examination date for examinations administered at locations other than the REC.

The examination fee covers the administration of all sections of an examination required for a particular license or endorsement. As stated in the NPRM, the Coast Guard will not charge a fee for necessary retests prior to the lapse period required in 46 CFR 10.217(a)(1) and (2). After the required lapse period, an applicant would have to begin the examination phase again and pay a new examination fee. If the applicant misses a scheduled examination, however, the Coast Guard will allow rescheduling of missed examination sections without requiring an additional fee, as long as the individual's application remains valid (within one year of the application date).

Some comments expressed uncertainty as to whether separate examination fees would be required for each endorsement in the event multiple endorsements were sought. This would occur with a first class pilot license that may have many endorsements extending the operating route under which the license could be used. There are also several different rating endorsements which can be obtained for the Qualified Member of the Engine Department (QMED) MMD issued under part 12.

Having separate applications submitted at different times often requires separate evaluations (perhaps involving different REC personnel), while examining mariner records for multiple endorsements at the same time on a single application is generally less time consuming. While not stated specifically in the NPRM, the Coast Guard requires a single endorsement examination fee for a single application, regardless of the number of endorsements requested, so long as the application remains valid, and provided an issuance has not occurred. Once an issuance occurs for a license or MMD endorsement, or for that matter, any license or MMD activity except for the radar endorsement on a license, a separate examination cycle will begin anew and appropriate fees will become payable. The Coast Guard intends this approach to encourage persons not to piecemeal their licensing or documentation process, thereby adding substantially to the workload of each REC by increasing the number of evaluations and issuances. If, for enhancement of employment opportunities or some other reason, the mariner desires to submit separate applications or receive separate endorsement issuances on his or her license, certificate of registry, or MMD, separate evaluation, examination, and issuance fees will apply.

The last phase the Coast Guard identified in the NPRM was the issuance phase. The Coast Guard also did not define the term "issuance" since its use should be clearly understood within the existing and proposed regulations. The issuance phase includes preparing forms, reviewing, and signing documents by appropriate REC personnel. The issuance fee will be paid before an individual receives the actual license, certificate of registry, or MMD.

Each time an issuance occurs, the fee cycle will start over. However, if a valid application remains on file for which an evaluation has already been conducted, another evaluation fee will not be required. One exception to this regulation will be radar endorsements. Several comments pointed out that an issuance fee for the radar endorsement would be excessive, since only minimal work is required by the Coast Guard to essentially type a two line endorsement on the back of the license and make minor record changes. The Coast Guard agrees that minimal work is required for a radar endorsement and considers the radar endorsement as an extension of the evaluation phase conducted during the original issuance or renewal of the applicant's license. Fees paid at that time will include the cost of the radar endorsement. While completing the radar endorsement at the time of renewal is preferred, the Coast Guard realizes that the radar endorsement and renewal time of a license are often out of phase with one another, at no fault of the license-holder.

Few comments were received concerning those circumstances when the applicant would not be charged a fee for one or more of the three phases (i.e., evaluation, examination, and issuance). Therefore, the Coast Guard has retained language in the final rule which specifically indicates that fees will not be charged unless the service is provided.

The Coast Guard also proposed no evaluation fee for the following categories: Certificates of registry for Junior Assistant Purser, Medical Doctor, Professional Nurse, and MMDs without a qualified rating endorsement. Although some comments objected to what the Coast Guard proposed, the Coast Guard has decided to retain a "no-fee" status for the evaluation phase of these categories. These categories do not require significant amounts of evaluation time, and assessing additional fees would be excessive and inconsistent with the User Fee Statute. However, the Coast Guard assesses a $17 fee for an original MMD or certificate of registry to cover the cost of the required FBI criminal record check.

In the NPRM, the Coast Guard stated that the full examination fee proposed for upper level and lower level licenses would not be appropriate in those instances where an applicant needs only a partial or limited examination.

Limited examinations consist of only one or two sections, and administration time is comparable to the time and effort required to administer the open book exercises for renewal of licenses. The Coast Guard, therefore, has established a lesser fee for limited examinations. This fee is the same as the examination fee for the open book exercise required for certain renewals. A limited examination is discussed in 46 CFR 10.412, 10.418, 10.424, 10.426, 10.429, 10.446, 10.456, and 10.466. The Coast Guard also considers the examination discussed in 46 CFR 10.427 and 10.454 to be a limited examination.

In the NPRM, the Coast Guard proposed to charge an issuance fee for all licenses, including licenses with a continuity endorsement, even though an applicant with this endorsement may not require an evaluation or examination and would not be assessed those fees. The Coast Guard also proposed to charge an issuance fee for all certificates of registry, and MMDs (CG Form 2838) including temporary MMDs (CG Form 2838T). However, for conversion of the temporary MMD to a permanent MMD, there would be no issuance fee. Additionally, consistent with proposed section 10.219 and existing section 12.02–23 of 46 CFR, no fee was proposed for issuance of a duplicate license, certificate of registry, or MMD, when its loss is due to a shipwreck or other casualty described under these sections.

With the exception of comments related to temporary MMDs, few comments were received concerning the proposed sections referred to in the preceding paragraph. Although the Coast Guard stated in the NPRM that there would be no fee for conversion of a temporary MMD to a permanent MMD card, some comments suggested that the Coast Guard not charge for a temporary MMD but rather charge for the permanent MMD card, since a fee for the temporary may discourage persons from entering the industry. While these views have been carefully considered, the Coast Guard has retained the fee for MMD initial issuance, whether for a temporary or permanent MMD card. Regardless of whether the temporary or permanent MMD card is issued, the Coast Guard must still establish records and initiate administrative steps, which require time to complete.

Collection of Fees

The Coast Guard examined various collection procedures, taking into consideration accounting requirements as well as convenience to the public. The Coast Guard considered having applicants mail fees to a separate address so that money would not be collected at the RECs. However, many Coast Guard licensing and merchant mariner documentation services are provided to "walk-in" applicants. The Coast Guard has determined the most expedient and most convenient method is to collect fees at the RECs. This would lessen the burden on applicants, who would otherwise be required to prepare a separate mailing to a third party and submit additional information to identify a particular fee as payment for the requested service. Collecting fees at RECs will also prevent delays associated with an applicant having to wait for verification that fees have been received.

Preferred payment method is by check or money order with the individual's social security number recorded somewhere on the payment instrument. For in-person processing only, cash will be accepted at Coast Guard units having a REC, if payment is made in the exact amount. The Coast Guard units may not be able to make change for cash payments, nor are they required to maintain cash on hand for such purposes. The Coast Guard is also considering offering payment by credit card, and may introduce that payment option in the future.

Fee payment procedures have been included in both parts 10 and 12. The procedures indicate that, unless otherwise directed, fees must be paid prior to the beginning of the evaluation, examination, or issuance phase. For examinations administered by TETs, unless otherwise directed, the examination fee is required to be received at the REC at least one week prior to the scheduled date of the examination. This one week requirement should not be unreasonable, since many "sponsors" who request the TETs normally schedule the examinations well in advance and know which applicants are eligible to take these examinations.

Penalties for Failure to Pay

The Coast Guard has established penalties for failure to pay fees. A civil penalty of up to $5,000 is authorized in section 2110 of title 46, United States Code. The Coast Guard proposed to treat a check returned due to insufficient funds as a late payment and to recover appropriate collection and enforcement costs in these cases. Multiple checks returned for insufficient funds could be treated as failure to pay and may subject the payor to a civil penalty. Pending payment, the Coast Guard may withhold additional license, certificate of registry, or MMD services from any person who has not paid fees for licensing services already received.

Concerning the penalties for failure to pay, the Coast Guard has retained the language proposed in the NPRM, but has renamed the part 10 section, "Penalties", rather than "Penalty for failure to pay fees." A few comments objected to the civil penalty of up to $5,000 stated in the NPRM. However, the Coast Guard chose to include the maximum civil penalty of $5,000 authorized by section 2110, as has been done in many other sections discussing civil penalties set by statute. Similarly, section 2110 authorizes assessing appropriate additional charges to recover collection and enforcement costs associated with delinquent payment of the fees. The amount of a specific penalty would be determined in accordance with the civil penalty procedures in 33 CFR part 1 and would be consistent with the nature of the violation for which the penalty was assessed.

Section by Section Analysis

46 CFR Part 10

In its authority citation, the Coast Guard included 31 U.S.C. 9701 which is the statute related to user fees.

Section 10.103—Definitions for the terms "evaluation", "upper level" and "lower level" have been added.

Section 10.109—This section lists user fees for licensing and registration activities.

Section 10.110—This section gives instructions on how fees are to be paid.

Section 10.111—This section establishes civil penalties for failure to pay fees.

Section 10.112—This section establishes requirements to qualify applicants for a no-fee license, and establishes procedures for obtaining a no-fee license.

Section 10.205, section 10.207 and section 10.209—A cross-reference to required fees listed in § 10.109 has been added to these sections.

Section 10.217—A requirement for assessing additional examination fees when an applicant repeats the examination phase has been added.

Section 10.219—A fee for reissuance of a license or certificate of registry has been referenced. Paragraph (b) has also been added to conform with a statute allowing free issuance of these documents if loss is due to shipwreck or other casualty. This section applies the same criteria as 46 CFR 12.02–23 for consistency between 46 CFR parts 10 and 12.

46 CFR Part 12

In its authority citation, the Coast Guard included 31 U.S.C. 9701 which is the statute related to user fees.

Section 12.01–6—Definitions for the terms "evaluation", "original document", and "qualified rating" have been added.

Section 12.01–7—An administrative correction was made to the list of REC locations by adding "Portland, OR."

Section 12.02–18—This section lists user fees for MMD activities. There was a $10 fee assessed in 33 CFR subpart 1.25 for a duplicate continuous discharge book or copies of certificates of discharge. The Coast Guard has moved this fee from 33 CFR subpart 1.25 to this section, so that all fees for MMD services will be contained in part 12.

This section also describes payment procedures and establishes civil penalties for failure to pay fees.

Section 12.02–23—This section was amended to reference fees in Section 12.02–18 and to delete outdated sections and references to 33 CFR subpart 1.25.

33 CFR Subpart 1.25

The Coast Guard made conforming amendments to 33 CFR subpart 1.25 and moved appropriate MMD fees to 46 CFR 12.02–18.

Regulatory Evaluation

The Act requires the Coast Guard to collect user fees for commercial vessel services provided under subtitle II of title 46 United States Code. These services include: Merchant marine licensing and merchant mariner documentation, vessel documentation, vessel inspection, vessel plan review, and equipment approval.

Although precise final cost impacts will not be known until after they have been in effect for a period of time, the total cost of direct user fees under Subtitle II is estimated to be less than $45 million on an annual basis. In developing the NPRM, the Coast Guard estimated the cost of operating the 17 RECs to be approximately $6.5 million, while estimating the total cost to the public to be only $6 million. However, following development of the final rule and further data analysis, the Coast Guard determined the cost of these regulations to be $5.2 million, leaving this rule well below the $100 million threshold that would make this a major rulemaking under Executive Order 12291 and below the $6.5 million originally estimated. In fact, the total cost to the public may decline even further because an unknown number of individuals may choose not to obtain or renew their Coast Guard license or MMD in response to this rulemaking.

Though not major, this rulemaking is significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979); as such, a Regulatory Evaluation was prepared and is available in the docket. This evaluation focused on the annualized cost of the user fees and compared them to typical salaries of merchant mariners. It also examined the fees in this rulemaking and compared them to other types of professional license fees. The evaluation concluded that the financial impact of the fees, by themselves, would be minimal on the public and on most individuals subject to these direct user fees. However, the Coast Guard acknowledges that the fees may represent but one of several costs incurred by the individual mariner in acquiring a Coast Guard license or MMD. As a result of the cumulative effect of the fees and other expenses, some of these individuals may choose not to obtain or renew a license or MMD.

A cost-benefit analysis was not prepared since this rulemaking is a deficit-reduction measure of the Act, and such analysis is not appropriate. Benefits to the mariners affected by these regulations are represented by the issuance of the marine license, certificate of registry, or MMD, all of which are currently provided free of charge by the Coast Guard. However, these regulations may have a small economic impact on many individuals, since any fee for services previously provided may reduce their net income.

The cost of the regulations to the merchant mariner will vary according to the type of license or service being requested. Since licenses are renewed every five years, to estimate the annual cost of an individual license, the total cost is divided by five. For example, an original upper level deck license requiring an examination will cost $272. If an upper level deck officer held this license for five years, the annualized cost to the deck officer would be approximately $55. Renewal of this license would cost $135, resulting in an annualized cost of $27.

Many comments indicated that the burden of the full amount of the fees falls on the individual in a single year. The Coast Guard acknowledges this reality. However, there would be additional administrative costs if the Coast Guard collected the fees on a prorated annual basis, for example, instead of collecting the fees every fifth year when a license is renewed. These additional administrative costs would have to be passed on to mariners in the form of higher fees. The Coast Guard has concluded that collecting the fees up-front, at the time the service is provided, is the most efficient method.

The U.S. Maritime Administration (MARAD) provided information to the Coast Guard regarding typical salaries for persons employed in the marine industry. Persons having an upper level license and employed in the position of third assistant engineer earn approximate monthly base wages of $3,283 in addition to estimated monthly overtime wages of $2,577. Third mate monthly base wages approximate $3,105 in addition to estimated monthly overtime wages of $2,437. In general, persons employed in higher grade license positions (chief mate, chief engineer, master, etc.), earn substantially higher base wages than a person with a third assistant engineer or third mate license. Thus, the annualized cost of these user fees appear to represent an insignificant amount, compared to the typical salaries of employed merchant marine officers.

For MMDs, the fee for obtaining a document endorsed as Able Seaman (highest fee category for MMDs) is $152. Renewal of this document is not currently required, but under the Oil Pollution Act of 1990, both existing and new MMDs must be renewed every 5 years. A merchant mariner seeking another MMD endorsement within a few years would also be required to pay additional fees. If the $152 cost is spread out over a 5-year period, the annualized cost would be approximately $30. The typical monthly base wage of an Able Seaman ranges from $1,403 (the median monthly wages of an Able Seaman on a U.S. flag, seagoing tanker reported by the Bureau of Labor Statistics) to $1,569 in addition to estimated monthly overtime wages of $1,232. On an annualized basis, user fee costs to the average employed seaman should represent significantly less than one day's wages.

Some comments provided information related to salary experience within the industry. This information indicated that a wide range of salaries exists, and that many mariners earn significantly less than the salaries reported to the Coast Guard by MARAD. Others stated that the typical merchant mariner is not employed the entire year, often sailing under the Coast Guard license only 30% to 50% of the time, if that much.

The Coast Guard did not attempt to either establish or justify the fees based on salary information. The fees established in this rulemaking were not based upon one's perceived ability to

pay. It would be inappropriate to base fees on these considerations under the criteria set forth in the General User Fee Statute. Instead, the Coast Guard used this salary information to examine the potential financial impact upon individuals affected by this rulemaking.

When compared to other costs already associated with receiving or maintaining a license, certificate of registry, or MMD, the Coast Guard's position is that the fees are not excessive. For most mariners, the fees will essentially become part of the overall cost associated with working in their trade or industry.

In summary, the Coast Guard's position is that the impact of these regulations on the general public will be minimal and that the impact on U.S. maritime industries will be small. User fees are not expected to have a significant impact on inflation, any one industry, geographic region, or international trade. On the other hand, the impact on individual mariners (or prospective mariners) will vary according to level, employment experience, and motivation. Persons who have no intention of returning to sea often retain their license or MMD as a matter of convenience, pride, or for some other personal reason. To accommodate these persons, only the issuance fee will be required to renew a license merely for continuity purposes. Some individuals considering entry level positions, who may have obtained an initial license or document had it remained free, may be discouraged because of these fees. However, the Coast Guard concludes that most individuals will view the fees as a small part of the total cost associated with seeking or obtaining employment in the maritime industry.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rulemaking will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small 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).

Although many comments spoke of the economically depressed marine industry, the fees established in this rulemaking will mostly impact the individual mariner. However, some license holders both own and operate their vessels as a small business; for example, those in the charter boat industry. Though the fees for their Coast Guard license will have some impact on their business, it is the Coast Guard's position that these fees, by themselves, do not create a significant economic impact.

Because it expects the impact of this rulemaking on small entities to be minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains minimal additional collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Existing requirements for applications for Coast Guard licenses, certificates of registry, and MMDs are covered under Office of Management and Budget control numbers 2115–0514 and 2115–0111. The additional requirements involve collection of funds, and of such information as is required to calculate the fee due or to ensure proper collection. These may include account numbers for financial accounts from which payment is made, and addresses, telephone numbers, or other identifying information which will permit follow-up action when an incorrect amount is submitted or a payment instrument fails to clear.

Those persons desiring to pay by check or money order will be required to include their social security number on the check or money order. The social security number serves as the unique means of identification for that individual at the REC and will help ensure that the appropriate individual is credited with the payment.

Another new requirement is established for individuals who seek the no-fee restricted license. A letter from an organization determined by Commandant (G–MP) to be eligible based on criteria of being charitable in nature, not-for-profit, and youth oriented must accompany the person's license application. The letter must state that the purpose of the person's application is only to further the conduct of the organization's maritime activities.

The burden placed on members of the public is considered to be minimal and within the scope of the information collection permitted under existing control numbers.

Federalism

The Coast Guard has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 12612, and has determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This final rule establishes user fees for marine licensing services. The authority to regulate marine licensing under 46 U.S.C. 2110 and user fees for related services has been delegated to the Coast Guard. Furthermore, marine licensing and user fees for related services are matters national in application for which regulations should be of national scope to avoid unreasonably burdensome variances. Therefore, the Coast Guard intends this final rule to preempt State action addressing the same matter, although no such action is expected.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this rule is categorically excluded from further environmental documentation because it involves only administrative actions, procedural regulations, and policies which clearly do not have any environmental impacts. A Categorical Exclusion Determination is available in the docket.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Freedom of information, Penalties.

46 CFR Part 10

Fees, Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 12

Fees, Reporting and recordkeeping requirements, Seamen.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 1 and 46 CFR parts 10 and 12 as follows:

TITLE 33—[AMENDED]

SUBCHAPTER A—GENERAL

PART 1—GENERAL PROVISIONS

1. The authority citation for subpart 1.25 is revised to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 633; 49 CFR 1.46.

2. The heading of subpart 1.25 is revised to read as follows:

Subpart 1.25—Fees and Charges for Certain Records and Services

3. Section 1.25–40 is amended by removing paragraph (b), Table 1.25–

40(b), and the paragraph designator (a) for the remaining text.

TITLE 46—[AMENDED]

SUBCHAPTER B—MERCHANT MARINE OFFICERS AND SEAMEN

PART 10—LICENSING OF MARITIME PERSONNEL

4. The authority citation for part 10 is revised to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 7701; 49 CFR 1.45, 1.46; Section 10.107 also issued under the authority of 44 U.S.C. 3507.

5. Section 10.103 is amended by adding the following definitions in alphabetical order to read as follows:

§ 10.103 Definitions of terms used in this part.

* * * * *

Evaluation means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

* * * * *

Lower level means a category of deck and engineer licenses established for assessment of fees. Lower level licenses are all licenses, other than those defined as upper level, for which the requirements are listed in subparts D, E, and G of this part.

* * * * *

Upper level means a category of deck and engineer licenses established for assessment of fees. Upper level licenses are those licenses for which the requirements are listed in §§ 10.404 to 10.407 of subpart D of this part and §§ 10.510, 10.512, 10.514, and 10.516 of subpart E of this part.

* * * * *

6. Section 10.109 is added to read as follows:

§ 10.109 Fees.

The following fees are required for license and registration activities in this part:

(a) For licenses.

(1) Upper level:

(i) For evaluation for an original license, $87.

(ii) For evaluation for a license other than an original, including a raise in grade in a license, $70.

(iii) For administration of an examination, including allowable retests, $150.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, $55.

(v) For issuance of a license, $35.

(2) Lower level:

(i) For evaluation for an original license, $82.

(ii) For evaluation for a license other than an original, including a raise in grade of a license, $65.

(iii) For administration of an examination, including allowable retests, $80.

(iv) For administration of a limited examination required under subpart D of this part, including allowable retests, $55.

(v) For issuance of a license, $35.

(3) Radio Officer:

(i) For evaluation for an original license, $62.

(ii) For evaluation for a license other than an original license, $45.

(iii) For issuance of a license, $35.

(b) For endorsements, except the radar observer endorsement, subsequent to the issuance of the license.

(1) For evaluation for single or multiple endorsements, $45.

(2) For administration of examinations, including allowable retests, $55.

(3) For issuance of single or multiple endorsements to an existing license, $35.

(c) For renewal of a license.

(1) For evaluation for renewal of a license, $45.

(2) For administration of an open-book exercise if required under § 10.209 of this part, $55.

(3) For issuance of a renewed license, $35.

(3) For issuance of a renewed license, without evaluation or examination, for continuity purposes only, $35.

(d) For Certificates of Registry.

(1) For Chief Purser, Purser, and Senior Assistant Purser:

(i) For evaluation of an unlicensed applicant for a certificate of registry, $62.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, $45.

(iii) For issuance of a certificate of registry, $35.

(2) For Junior Assistant Purser, Medical Doctor, and Professional Nurse:

(i) For evaluation of an unlicensed applicant for a certificate of registry, $17.

(ii) For evaluation of an applicant who holds a license or certificate of registry issued under this part, no fee.

(iii) For issuance of a certificate of registry, $35.

(e) For reissue of a license or certificate or registry issued in this part where a fee is required in § 10.219, $35.

(f) For endorsements to existing license, a raise in grade of a license, an additional license, or certificate of registry where further evaluations are not required, no evaluation fee.

(g) For endorsements to an existing license, a raise in grade of a license, or an additional license where further examinations are not required, no examination fee.

7. Section 10.110 is added to read as follows:

§ 10.110 Fee payment procedures.

(a) Unless otherwise directed, the prescribed fee must be paid as follows:

(1) If an evaluation fee, at the time of application.

(2) If an examination fee, prior to taking the first examination section.

(3) If an issuance fee, prior to receiving the license or certificate of registry.

(b) For examinations administered at locations other than a Regional Examination Center, the examination fee must be received by the Regional Examination Center at least one week in advance of the scheduled examination date, unless otherwise directed.

(c) Prescribed fees must be paid by one of the following options:

(1) *Mail-in.* Payment by check or money order only, made payable to one of the following:

(i) U.S. Coast Guard;

(ii) U.S. Government;

(iii) U.S. Treasury;

(iv) U.S. Department of Transportation.

Fee payment by check or money order must have the applicant's (payor's) social security number included thereon.

(2) *In-person.* Fee payment will be accepted by cash, check, or money order at Coast Guard units where Regional Examination Centers are located. Where an applicant makes payment by cash, payment must be in the exact amount. A check or money order must be payable as specified in paragraph (c)(1) of this section.

8. Section 10.111 is added to read as follows:

§ 10.111 Penalties.

(a) Anyone who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(b) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard licensing services may also be withheld from anyone pending payment of outstanding fees owed to the Coast Guard for services already provided by Regional Examination Centers.

9. Section 10.112 is added to read as follows:

§ 10.112 No-fee license for certain applicants.

(a) For the purpose of this section, a no-fee license applicant is a person who is a volunteer, or part-time or full-time employee of an organization which is:

(1) Charitable in nature;

(2) Not for profit; and

(3) Youth oriented.

(b) An organization may submit a written request to Commandant (G–MP), 2100 Second Street SW., Washington, DC 20593–0001 in order to be considered an eligible organization under the criteria set forth in paragraph (a) of this section. With the written request, the organization must provide evidence of its status as a youth oriented, not for profit, charitable organization.

Note: The following organizations are accepted by the Coast Guard as meeting the requirements of paragraph (a) of this section and need not submit evidence of their status: Boy Scouts of America, Sea Explorer Association, Girl Scouts of the United States of America, and Young Men's Christian Association of the United States of America.

(c) A letter from an organization determined eligible under paragraph (b) of this section must also accompany the person's license application to the Coast Guard. The letter must state that the purpose of the person's application is solely to further the conduct of the organization's maritime activities. The applicant then is eligible under this section to obtain a no-fee license if other requirements for the license are met.

(d) A marine license issued to a person under this section is endorsed restricting its use to vessels owned or operated by the sponsoring organization.

(e) The holder of a no-fee license issued under this section may have the restriction removed by paying the appropriate evaluation, examination, and issuance fees that would have otherwise applied.

10. Section 10.205 is amended by revising paragraph (a) to read as follows:

§ 10.205 Requirements for original licenses and certificates of registry.

(a) *General.* The applicant for an original license or certificate of registry shall present satisfactory documentary evidence of eligibility in respect to the requirements of this section. Each applicant shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109.

* * * * *

11. Section 10.207 is amended by revising paragraph (a) to read as follows:

§ 10.207 Requirements for raise of grade of license.

(a) *General.* Before any person is issued a raise of grade of license, the applicant shall present satisfactory documentary evidence of eligibility. Each applicant shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109.

* * * * *

12. Section 10.209 is amended by revising paragraph (a) to read as follows:

§ 10.209 Requirements for renewal of license.

(a) *General.* Except as provided in paragraph (g) of this section, each applicant for renewal of a license shall establish that he or she possesses all of the necessary qualifications before a renewed license is issued. Each applicant for renewal of a license shall make written application on a Coast Guard furnished form and, unless exempted under § 10.112, submit the evaluation fee set out in § 10.109. The applicant may appear in person at any Regional Examination Center listed in § 10.107 or may renew the license by mail under paragraph (e)(3) of this section. The applicant must submit the license to be renewed or a photocopy of the license. If requested, the old license will be returned to the applicant.

* * * * *

13. Section 10.217 is amended by revising paragraph (a) to read as follows:

§ 10.217 Examination procedures and denial of licenses.

(a)(1) The examinations for all deck and engineer unlimited licenses are administered at periodic intervals. The examination fee set out in § 10.109 must be paid prior to taking the first examination section. If an applicant fails three or more sections of the examination, a complete reexamination must be taken, but may be taken during any of the scheduled exam periods. On the subsequent exam, if the applicant again fails three or more sections, at least 3 months must lapse before another complete examination is attempted, and a new examination fee is required. If an applicant fails one or two sections of an examination, the applicant may be retested twice on these sections during the next 3 months. If the applicant does not successfully complete these sections within the 3 month period, complete reexamination must be taken after a lapse of at least 3 months from the date of the last retest, and a new examination fee is required. The 3 month retest period may be extended by the OCMI if the applicant presents discharges documenting sea time which prevented the taking of a retest during the 3 month period. The retest period may not be extended beyond 7 months from the initial examination.

(2) The scheduling of all other deck and engineer license examinations will be at the discretion of the OCMI. The examination fee set out in § 10.109 must be paid prior to taking the first examination section. In the event of a failure, the applicant may be retested twice whenever the examination can be rescheduled with the OCMI. The applicant must be examined in all of the unsatisfactory sections of the preceding examination. If the applicant does not successfully complete all parts of the examination during a 3-month period from the initial test date, a complete reexamination must be taken after a lapse of at least 2 months from the date of the last retest, and a new examination fee is required.

* * * * *

14. Section 10.219 is amended by redesignating the existing text as paragraph (a) and adding new paragraphs (b) and (c) to read as follows:

§ 10.219 Issuance of duplicate license or certificate of registry.

(a) * * *

(b) If a person loses a license or certificate of registry by shipwreck or other casualty, a reissue of that license or certificate or registry will be supplied free of charge. Other casualties include any damage to a ship caused by collision, explosion, tornado, wreck, flooding, beaching, grounding, or fire.

(c) If a person loses a license or certificate of registry otherwise than by shipwreck or other casualty and applies for a reissue, the appropriate fee set out in § 10.109 is required.

PART 12—CERTIFICATION OF SEAMEN

15. The citation of authority for part 12 is revised to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2103, 2110, 7301, 7701; 49 CFR 1.46.

16. Section 12.01–6 is added to read as follows:

§ 12.01–6 Definitions of terms used in this part.

Evaluation means processing an application, from the point of receipt to approval or rejection of the application, including review of all documents and records submitted with an application as well as those obtained from public records and databases.

Original document means the first merchant mariner's document issued to any person by the Coast Guard.

Qualified rating means various categories of Able Seaman, Qualified Member of the Engine Department, Lifeboatman, or Tankerman endorsements on merchant mariner's documents.

17. Section 12.01–7 is amended by adding the following location name to the existing list to read as follows:

§ 12.01–7 Regional Examination Centers.

* * * * *

Portland, OR

* * * * *

18. Section 12.02–18 is added to read as follows:

§ 12.02–18 Fees.

(a) The following fees are required for merchant mariner's document activities in this part:

(1) For evaluation for an original document, (does not apply if applicant holds a license or certificate of registry issued under part 10 of this chapter), $17.

(2) For evaluation for a merchant mariner's document endorsed with a qualified rating:

(i) For an original merchant mariner's document, $77.

(ii) For a merchant mariner's document other than original, $60.

(iii) Where further evaluation is not required, such as when a merchant mariner's document is issued incident to a license transaction, no fee.

(3) For administration of examination, $40.

(4) For issuance of a document, $35.

(5) For duplicate of a merchant mariner's document issued in this part where a fee is required in § 12.02–23, $35.

(6) For a duplicate continuous discharge book, record of sea service, or copies of certificates of discharge, $10.

(b) Unless otherwise directed, the prescribed fee must be paid as follows:

(1) If an evaluation fee, at the time of application.

(2) If an examination fee, prior to taking the first examination section at a Regional Examination Center. For examinations administered at locations other than a Regional Examination Center, the examination fee must be received by the Regional Examination Center at least one week in advance of the scheduled examination date.

(3) If an issuance fee, prior to receiving the document.

(c) Prescribed fees must be paid by one of the following options:

(1) *Mail-in.* Payment by check or money order only, made payable to one of the following:

(i) U.S. Coast Guard;

(ii) U.S. Government;

(iii) U.S. Treasury;

(iv) U.S. Department of Transportation.

Fee payment must be made by check or money order with the applicant's (payor's) social security number included thereon.

(2) *In-person.* Fee payment will be accepted by cash, check, or money order at Coast Guard units where Regional Examination Centers are located. Where an applicant makes payment by cash, payment must be in the exact amount. A check or money order must be payable as specified in paragraph (c)(1) of this section.

(d) The following applies to anyone failing to pay a fee or charge established under this subpart:

(1) Anyone who fails to pay a fee or charge established under this subpart is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) The Coast Guard may assess additional charges to anyone to recover collection and enforcement costs associated with delinquent payments of, or failure to pay, a fee. Coast Guard merchant mariner's document services may also be withheld from anyone pending payment of outstanding fees owed to the Coast Guard for services already provided by Regional Examination Centers.

19. Section 12.02–23 is amended by revising paragraphs (b) and (c) to read as follows:

§ 12.02–23 Issuance of duplicate documents.

* * * * *

(b) If a seaman loses a continuous discharge book, merchant mariner's document, or certificate of discharge otherwise than by shipwreck or other casualty and applies for a reissue, the appropriate fee set out in § 12.02–18 is required.

(c) A person entitled to a duplicate merchant mariner's document, duplicate continuous discharge book, copies of certificates of discharge, or record of sea service may obtain the documents by applying at any Regional Examination Center listed in § 12.01–7 by:

(1) Completing the application form provided by the Coast Guard; and

(2) Paying the fee set out in § 12.02–18.

* * * * *

Dated: March 15, 1993.

J.W. Kime,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 93–6364 Filed 3–18–93; 8:45 am]

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federal register

Friday
March 19, 1993

Part V

Department of Labor

Employment and Training Administration

20 CFR Part 656
Labor Certification Process for Permanent Employment of Aliens; Labor Market Information Pilot Program; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 656

RIN 1205–AA87

Labor Certification Process for the Permanent Employment of Aliens in the United States; Labor Market Information Pilot Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration of the Department of Labor (DOL) is proposing to amend its regulations relating to the labor certification process for the permanent employment of aliens in the United States. The amendments are necessary to implement the Labor Market Information (LMI) Pilot Program provided for in section 122(a) of the Immigration Act of 1990 (IMMACT).

The LMI Pilot Program will provide for a determination of labor shortages in 10 defined occupational classifications in the United States using data on certifications approved under section 212(a)(5)(A) of the Immigration and Nationality Act (INA) and other labor market information. Labor certifications will be deemed to have been granted in these labor shortage occupations. This program will apply to applications for permanent labor certification filed through September 30, 1994.

DATES: Comments are invited on the proposed rule and on the proposed list of occupations. Comments shall be submitted by April 19, 1993.

ADDRESSES: Submit comments to: Carolyn M. Golding, Acting Assistant Secretary, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Attention: United States Employment Service, Division of Foreign Labor Certifications, room N–4456.

FOR FURTHER INFORMATION CONTACT: Flora Richardson, Chief, Division of Foreign Labor Certifications, United States Employment Service. Telephone: (202) 219–5263 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

On November 29, 1990, the Immigration Act of 1990 (IMMACT), Public Law 101–649, 104 Stat. 4978, was enacted.

This law amended the Immigration and Nationality Act (INA) (8 U.S.C. 1101, *et seq.*) and assigned responsibility to the Department of Labor (DOL or Department) for implementing several provisions of IMMACT relating to the entry of certain categories of employment-based immigrants, and to the temporary employment of certain categories of nonimmigrants.

Section 212(a)(5)(A) of the INA provides that immigrant aliens in specified employment-based permanent visa categories are excluded from the United States unless the Secretary of Labor (Secretary) has certified to the Secretary of State and the Attorney General that able, willing, and qualified U.S. workers (or equally or more qualified U.S. workers, in the case of college teachers and aliens of exceptional ability in a science or art) are unavailable and employment of the alien will not adversely affect the wages and working conditions of U.S. workers similarly employed. 8 U.S.C. 1182(a)(5)(A). This action is called a labor certification.

The permanent alien labor certification process, which, for the most part, is conducted on a case-by-case basis, has proven to be both lengthy and costly. Although average processing times can vary widely from State to State, nationwide, the permanent alien labor certification process now takes an average of about nine months to complete. Once issued, a DOL permanent alien labor certification remains valid indefinitely.

In section 122(a) of IMMACT, Congress directed the Secretary to conduct a labor market information pilot program for employment-based immigrants (LMI pilot program) to determine whether the permanent alien labor certification process could be streamlined by supplementing this case-by-case process with an approach utilizing lists of occupations in which there are labor shortages or surpluses. The legislation provides that, under the pilot program, a determination will be made that labor shortages or surpluses exist in up to 10 defined occupational classifications. Section 122(a) requires that, in making these determinations, the Department consider occupations that have been previously approved under the permanent alien labor certification program as well as labor market and other related information. If it is determined that there is a labor shortage with respect to an occupation, a labor certification under section 212(a)(5)(A) shall be deemed to have been issued for that occupation. If it is determined that there is a labor surplus in an occupation, the Department may only issue a permanent alien labor certification if the employer submits evidence, based on extensive recruiting efforts (including such efforts as the Secretary may require), that the employer meets the requirements for certification under INA section 212(a)(5)(A). The Secretary is required to report to Congress by April 1, 1994, on the operation of the pilot program and whether the program should be extended.

The Department has elected to include only shortage occupational classifications in the LMI Pilot Program. There is an analogy for the LMI pilot program in previous and current regulatory provisions at 20 CFR part 656 for shortage (Schedule A) occupations.

Schedule A is a list of precertified occupations and occupational categories for which the Department has previously determined that there are not sufficient U.S. workers who are able, willing, qualified and available. See 20 CFR 656.10 and 656.22 (1992). The occupations currently on Schedule A are occupations that require highly specialized knowledge, skills and abilities, and extensive training and experience. Schedule A currently includes two specific occupations—registered nurses and physical therapists—and an occupational category for aliens of exceptional ability in the sciences or the arts.

Historically, during the late 1960's and 1970's, Schedule A was the product of an extensive process of economic and labor market analysis of employment demand and supply conducted by DOL national office staff. The occupations were initially identified through the application of factors such as: Unemployment rates; occupational projections; evidence submitted by trade associations, employers and organized labor; and technical reviews by Federal and State staff with expertise in these areas. The occupational listings in the schedule were reviewed and modified at regular intervals to reflect changing economic and labor market conditions and to prevent adverse impact on the wages or working conditions of U.S. workers. Occupations are placed on or deleted from the current Schedule A only after rulemaking, with full opportunity for public comment.

The LMI pilot program is not intended to identify labor shortages for any purpose other than to test whether parts of the permanent alien labor certification process can be streamlined, without adversely affecting U.S. workers, in specific geographic areas where labor market information indicates a potential labor shortage in specific occupational classifications. However, the Department also views the

LMI pilot program as an opportunity to advance the interests of U.S. workers. Employers seek immigrant workers, in large part, because U.S. workers in their local communities lack the education and high-level skills needed to fill these job openings or are unwilling to take a particular job opportunity. The Department therefore encourages training and education agencies, as appropriate, to provide the necessary career counseling and training so that U.S. workers can qualify for the jobs that employers now fill with alien workers.

II. Analysis of Comments Received in Response to March 20, 1991 Federal Register Notice

On March 20, 1991, the Department published an advance notice of proposed rulemaking (ANPRM) in the Federal Register inviting comments from interested parties on a series of issues and questions related to the Department's responsibilities under IMMACT. 56 FR 11705. Several of these questions concerned the LMI pilot program. A total of 47 letters containing 157 comments were received on the pilot program from State officials, a Territorial government, Federal Government agencies, educational institutions, trade associations, unions, law firms, and private employers. The ANPRM specifically requested comments on the following issues and questions, as well as on any other matter relevant to DOL's responsibilities in implementing the pilot program:

(A) Appropriate methodologies that might be used to determine the labor shortage and/or surplus occupational classifications.

The Department received 25 comments on this subject. More than half (13) suggested that the methodologies utilize permanent alien labor certification data. Of these, six suggested that alien certification data be used exclusively and the remaining seven felt that these data should be used in combination with other data sources. Other commenters suggested that a variety of other LMI and related sources of information be used in developing lists of shortage/surplus occupational classifications.

The Department developed and utilized a methodology for selecting the occupational classifications to be used in the pilot test that combines the use of labor certification data and labor market information. It was concluded that the integrated use of data from these sources would provide the most accurate indication of the possible existence of labor shortages in specific occupational classifications and geographic areas.

(B) Should the pilot program address both labor shortage and labor surplus occupational classifications? If so, how should the occupational classifications identified be divided between shortage and surplus and on what basis?

A total of 21 comments were received on this question. Eleven commenters recommended that only shortage occupational classifications be included in the pilot and ten suggested that the list contain both shortage and surplus occupational classifications. Those recommending that the list contain both commented that the number of surplus occupational classifications should be limited and/or that no "waivers" should be granted for surplus occupational classifications during the pilot. No commenter recommended that only labor surplus occupational classifications be included in the pilot.

It is the Department's view that a basic purpose of section 122(a) of IMMACT is to test an approach to streamlining the permanent alien labor certification process that would reduce the administrative burden on employers without adversely affecting U.S. workers. While this can be achieved in a methodology designed to identify labor shortages, the Department has concluded that, under the terms of the legislation, testing of a new methodology for identifying labor surpluses would, in fact, impose an additional administrative burden and costs on employers. This would occur because the law requires that if, under the test, a labor surplus is identified in an occupation, employers would be required to provide evidence of extensive recruiting efforts (presumably over and beyond the basic Labor Certification process) before the Department could issue a permanent alien labor certification in that occupation.

(C) Specific sources of data that might provide the best information on potential shortage/surplus occupational classifications and their locations.

Eleven of the 15 comments received on this subject suggested that State employment security agency (SESA) administrative data, permanent alien labor certification data, labor market information, and private surveys would be appropriate data sources. In addition to these sources, a number of other data sources were suggested, including the results of existing surveys conducted by scientific, professional and trade associations.

The Department's methodology involves the use of all the data sources suggested by commenters. Permanent alien labor certification data and labor market information were used in identifying the initial list of occupational classifications and the other sources noted were used in the subsequent analysis and refinement of the list.

(D) The frequency with which the list of shortage and surplus occupational classifications should be updated, and the method that should be used for doing so.

Ten of the 16 commenters recommended that the list be updated annually. The remaining specific comments ranged from updating quarterly to updating every three years. None of the commenters suggested any method which could be used to conduct this update.

Since the authority for the pilot test expires on September 30, 1994, less than two years will be available for the conduct of the test. The Department has concluded that changes in the list of occupational classifications during this short period would complicate the evaluation of the program by not allowing an adequate time period for the collection of data on each of the occupational classifications selected for the test. However, if authority for the pilot program is extended beyond this period, the Department would consider changes in the list of occupational classifications.

E) The general principles to use in selecting the shortage/surplus occupational classifications for the pilot program.

No comments were received on this subject.

(F) The rationale for the degree of specificity that should be used to identify each listed occupational classification.

A total of 30 comments were received on the degree of specificity that ought to be used to select occupational classifications. Sixteen concerned the level of occupational detail to be used in identifying occupational classifications and 14 concerned whether the occupational classification shortages/surpluses listed should be limited to specific geographic areas. Of those commenting on the level of occupational detail, ten suggested that the occupational classifications be narrowly defined and six suggested that the occupational classifications should be broadly defined. None of those commenting on the level of geographic

detail favored publishing the list on a national basis. The majority (8) favored State/local lists and the remainder (6) suggested that the lists be on a regional basis.

In defining the occupational classifications to be included in the pilot test, the Department chose broad shortage occupational classifications and used other data and criteria to refine the occupational classifications to specific occupations so that the LMI pilot program would apply only to job opportunities in geographic areas for which there was significant evidence of a shortage of qualified U.S. workers. It was also necessary, in this process, to take into account the availability of data that could be used in measuring the existence of shortages in these occupational classifications.

(G) Should occupations, occupational classifications and occupational categories currently on Schedules A (shortage occupations) and B (surplus occupations) be considered for or automatically included in the pilot program? Should Schedule A be continued or eliminated during the pilot?

Of the 28 comments received on this issue, 14 commenters were in favor of retaining these schedules as separate entities and not including them in the pilot. The remaining comments ranged from suggestions that one or both schedules be included in the pilot (7) to the elimination of one or both schedules (5).

The Department has concluded that the LMI pilot program should not affect the occupational classifications or requirements of Schedule A since this is a pilot test. The rationale for the inclusion of those classifications in Schedule A remains valid and therefore Schedule A will continue to apply nationally, including in the States which will be sites in the LMI pilot program.

Schedule B will be unaffected by the pilot test since the test will not include occupational surplus classifications.

(H) Other Comments

In addition to comments on these specific questions, the Department received a number of other written comments on the pilot program portion of the ANPRM as well as oral comments made at public meetings devoted to discussion of the ANPRM. These comments involved primarily two areas of concern: the need for additional funds to support State information collection for the program and requests that specific occupational classifications be included in the LMI pilot program.

(1) Funding

Five State officials commented that additional funding would be required if the States would be expected to enhance current labor supply and demand information in order to identify occupational classification shortages and surpluses.

The Department does not anticipate that there will be an additional reporting or data collection burden placed upon the States in the conduct of the LMI pilot program. The researchers who developed the recommended list of occupational classifications and those who will conduct the evaluation of the program will confine their analysis to data that are currently available.

(2) Specific Occupational Requests

The Department also received 16 requests to include specific occupational classifications on the list of shortage occupations for the pilot. The occupations suggested include the following: University teachers/researchers, physical therapists, radiation oncology technologists, nurses, occupational therapists, live-in domestic workers, software engineers, long-haul truck/tractor drivers, and artists with exceptional ability. In addition to requests to include specific occupations in the pilot, the Department also received several requests to exclude engineers and construction industry occupations from the list of shortage occupational classifications.

All of these requests were taken into account by the Department in developing the list of occupational classifications for inclusion in the LMI pilot program. The final selection of occupational classifications was made on the basis of the criteria and procedures outlined in the discussion of methodology in section III(D) of this preamble.

III. LMI Pilot Program Design

The Department has carefully reviewed the public comments on the ANPRM, studied the legislative history of IMMACT, and consulted with staff experts on the permanent alien labor certification process in DOL and in the SESA's. A basic objective of IMMACT was to make the immigration system more efficient and more responsive to the staffing requirements of employers by increasing both the number and skill level of the employment-base immigrants admitted into the United States, while continuing to safeguard the interests of U.S. workers. As indicated above, the purpose of the LMI pilot program is to determine whether the permanent alien labor certification process can be streamlined by supplementing the current case-by-case process with the use of labor market information to determine occupational classifications which are characterized by labor shortages.

There are a variety of LMI and related data sources, such as the Current Population Survey, Decennial Census data, wage surveys, and administration statistics gathered by various public and private agencies, that can serve as indicators of occupational shortages. The pilot program will test the extent to which these data can be used to waive the case-by-case certification process without adversely effecting U.S. workers.

The following are the principal features of the pilot program:

(A) Summary of LMI Pilot Program

After consultation with the Immigration and Naturalization Service (INS), DOL determined that it will delegate authority to the INS to administer the operations of the LMI pilot program with respect to the shortage occupational classifications in the same manner that it administers the current Schedule A list of precertified occupations. The LMI pilot will not affect the occupations and occupational classifications currently on, or requirements of, Schedule A. DOL does not plan to update the list of occupational classifications unless Congress extends the program beyond September 30, 1994.

For purposes of the LMI pilot program, DOL proposes to include ten shortage occupational classifications on the list. Each shortage classification will include a definition/description and the specific qualifications which an alien must possess in order to qualify for precertification. The process will require the employer to file Form ETA 750, Application for Alien Employment Certification, and evidence of the alien's qualifications with the INS, along with the petition for preference classification. If the petition is approved, INS will send to DOL (i.e., the U.S. Employment Service's Division of Foreign Labor Certifications) a copy of the ETA 750, without supporting documents. The ETA 750 will provide DOL information for statistical and evaluation purposes, such as the specific occupations in which aliens receive precertification, locations of jobs, wages offered, education and experience of aliens hired as a result of this process, and nature of employer's business.

(B) Conduct the Pilot Test at the Subnational Level

Labor shortages tend to be concentrated in specific occupations and in particular regions, States, or localities. The Department concluded that while nationwide data may show a potential shortage in specific occupational classifications, labor surpluses may exist in these occupational classifications in smaller geographic areas, particularly during a period of slow economic growth. For this reason, and given the limited resources available for the pilot test and its evaluation, the Department has decided to conduct the test on the subnational level.

(C) Limit Shortage Occupational Classifications to Those With High-Skill Levels

Supply-demand imbalances in low-skilled occupational classifications can be addressed through the short-term training of American workers that can often be provided on the job. Such imbalances are likely to be transitory and thus are not appropriate for precertification. DOL has, therefore, limited the LMI pilot test to occupational classifications which require substantial education and/or experience and that are in high demand in specific regions of the country.

(D) Methodology for Identifying Labor Shortage Occupations

In the absence of direct measures of labor shortages, the Department has elected to use a methodological approach that utilizes labor certification data and a series of indirect labor market indicators of labor shortage combined with expert analysis for purposes of this pilot program. To accomplish this task, the Department used the services of a leading expert on labor market information, Dr. Malcolm Cohen, Director of the Institute of Labor and Industrial Relations, University of Michigan, to develop the list of proposed occupational classifications. He has conducted research for a large number of Federal and State agencies and published widely on labor market information and employment forecasting topics in scholarly journals.

Recognizing that current labor shortages tend to be concentrated in specific occupations and in particular localities, a methodological approach was developed that would identify occupational classifications in which significant supply/demand imbalances exist in specific States. Using a range of labor market indicators supplemented by consultation with labor market experts, the methodology identifies occupations and areas in which shortages are likely to exist. Thus, at this stage, the selection of a particular occupation or State for the pilot test should not be interpreted as conclusive evidence that an occupational shortage does, in fact, exist.

The approach used to develop the list of occupational classification consisted of the following steps:

Step 1. Development of Indicators

The initial list of occupations to be considered for the study was formulated by aggregating the approximately 13,000 occupations listed in the Dictionary of Occupational Titles into 193 occupational groups. Seven labor market indicators were developed, which would be used, in combination, to select—from these 193 occupational groups—a list of occupational groups from which the final list for the pilot test would be drawn. The seven indicators are:

(1) A composite index based on labor market conditions for the occupational group from 1986–1989.

(2) The average amount of training time required for the occupations in the group, based on the SVP in the Dictionary of Occupational Titles.

(3) The average number of permanent alien labor certifications for the group per 100,000 members of the labor force from 1990–1992.

(4) The average annual employment change for the group from 1989 to 1991.

(5) The average unemployment rate of the occupational group for 1990 and 1991.

(6) The growth or decline projected by the Bureau of Labor Statistics for the occupational group from 1990–2005 (moderate forecast assumption).

(7) Average annual wage change in the occupational group from 1989 to 1991.

Step 2. Assignment of Rank

The second step involved assigning a rank of one through seven to each indicator for each occupational group, with higher ranks denoting a higher likelihood of occupational shortage. The following are the measures associated with the highest and lowest ranks assigned to each of the seven indicators:

Indicator	Lowest rankings	Highest rankings
1.	Lowest composite score.	Highest composite score.
2.	Lowest amount of training required.	Highest amount of training required.
3.	Lowest rate of permanent alien labor certifications per 100,000 members of labor force.	Highest rate of permanent alien labor certifications per 100,000 members of labor force.
4.	Lowest average annual employment growth rate, or highest decrease.	Highest average annual employment growth rate.
5.	Highest average annual unemployment rate.	Lowest average annual unemployment rate.
6.	Lowest projected average employment growth rate, or highest decrease.	Highest projected average employment growth rate.
7.	Lowest average annual wage increase.	Highest average annual wage increase.

Occupational groups could theoretically score as low as seven if they scored one in all seven indicators or as high as 49 if they received the highest score of seven in every indicator. An average score for an occupational group would be 28.

Occupational groups with a score of 28 or above were selected for further consideration. Primary emphasis was placed on occupations with scores of 35 or more. Occupational classifications with scores between 28 and 34 were considered only in the presence of additional information, such as a high number of certifications in specific nine-digit occupations within the occupational classification, or expert opinion.

Step 3. Geographic Locations

The third step consisted of selecting, for further analysis, States in which potential shortages existed in the occupational groups selected in Step 2. Initially, States were selected in which there was an average of three or more permanent alien labor certifications per 1,000 members of the labor force for the State from 1990–1992.

In the final analysis, only States with a total of 10 or more permanent alien labor certifications in FY 1992 in the occupational group were included in the analysis. It was determined that if fewer than 10 such certifications took place in a State, the computed ratio could be spurious and, therefore, the State should not be selected as one of the occupational shortage sites.

Step 4. Consultation

The fourth step involved meetings to review criteria with staff of the following offices of the U.S. Department of Labor: Division of Foreign Labor Certifications of the Employment and Training Administration, Office of the Assistant Secretary for Policy, Bureau of International Labor Affairs, Employment Standards Administration, Bureau of Labor Statistics, and the Office of the Solicitor. Meetings were held with other Federal agencies including the Department of Health and Human Services and the National Science Foundation. In addition, individual labor economists, social scientists, university placement staff, and other experts were interviewed.

The primary objective of these meetings was to obtain comments on the appropriateness of the methodology outlined in Steps 1–3 above, and to obtain any additional information that could be used in identifying the labor shortage occupations that would be used in the pilot test. In addition, information was collected that would help in further refining the definitions of the occupational classifications that had been identified for potential inclusion in the pilot test. For example, it was suggested by university placement staff that while there was an adequate supply of biologists at the Bachelor's level, Ph.D.'s were in much shorter supply.

Step 5. Regional Office and State Agency Contacts

Based on Steps 1–4, occupational groups and States were tentatively identified for inclusion in the pilot test. Regional Offices of ETA and State Employment Service Agencies (SESA's) were consulted to gain further information concerning the existence of shortages in these occupational groups and States.

Regional Offices. Personal visits were conducted at five of the ETA Regional Offices: Dallas, San Francisco, Chicago, Philadelphia and New York. The Regional Offices visited accounted for more than 80 percent of all permanent alien labor certification activity in FY 1992. In addition, the Seattle Office was contacted by telephone. Regional Office experts were asked to review the occupational groups (and the specific occupations that comprise the groups) identified for States in their regions and to comment on the existence of Statewide shortages in these occupations as well as on the educational levels at which shortages might occur. Regional staff also furnished detailed data on labor certification activity in their areas which shed further light on the existence of shortages in States in their regions.

Employment Service Offices. The New York, California, and Massachusetts SESA's were visited. Telephone contacts were made with the Illinois, Louisiana, Michigan, New Jersey, Ohio, Texas, and Washington State SESA's. The primary purpose of these SESA contacts was to collect data on active applicants registered at the Employment Service and on unfilled job orders in the occupational classifications being considered for the pilot test. A high ratio of active applicants to open job orders in a given occupational classification was deemed to be inconsistent with the existence of a labor shortage in that occupational group.

(E) Evaluation of the LMI Pilot Program

The Department will conduct an evaluation of the pilot program to provide the basis for the report to Congress required by section 122(a)(4) of IMMACT. The evaluation study will have two purposes. First, it will test the extent to which the project affects time and resources for the INS, ETA, and the economic participants in the affected labor markets. In addition, it will examine the impacts of the pilot procedures on employment levels, wages and working conditions for U.S. workers.

With regard to the first of these objectives, the pilot will study how procedural changes affect the volume of applications, the speed with which they are processed, the cost of processing them, and the quality of the outcome for the applicant employer and competing U.S. applicants. It will address questions such as:

- Does precertification encourage a greater number of applications, particularly by enabling employers to place workers, who are already on the job, in positions with legal status (among the occupational classifications to be tested, this may especially be the case for the occupation, Cook Chinese-style food)?
- What savings, if any, accrue to the Federal Government, and to employees, as a result of precertification?
- How much, if at all, does precertification reduce the employer's wait to fill labor shortage jobs? and
- Are precertified aliens any more or less prone to remain on their jobs than those processed on a case-by-case basis?

With regard to the impact of the pilot procedures on the conditions experienced by U.S. workers, the Department of Labor hopes to gather information that includes the following:

- The impacts on wages and working conditions. The Department will investigate whether precertification adversely affects workers in the shortage sectors.
- The impacts of the procedures on employment level. The evaluation will look for displacement effects for U.S. workers resulting from the precertification procedures in shortage occupations. The Department will investigate if a change in the number of workers allowed permanent residence adversely affects employment opportunities for U.S. workers. Also, the study will focus on the recruitment methods that employees use to place aliens in occupations identified as having a shortage of workers. It is possible that the pilot procedures encourage employers to widen their foreign recruitment networks at the expense of U.S. employment.

The Department will monitor the impacts in part by making comparisons using administrative data from ETA, SESA, and INS in many of the pilot sites. In addition, the Department will collect in-depth, on-site information from some of the pilot sites. This latter information-gathering effort will include interviews with knowledgeable individuals, such as employers who use alien applicants, business association representatives, the alien applicants themselves, U.S. workers and foreign nationals employed in the relevant occupations, labor union officials and the immigration bar.

The evaluation will serve a valid and reliable information base for the Secretary to report to the Congress on the operation of the pilot program, on whether to recommend an extension of the pilot project, and the number of defined occupational classifications permitted under the program if it is extended.

IV. Summary

This **Federal Register** notice provides the general public with the opportunity to comment on the list of occupations developed through this methodology and proposed for use in the pilot test. Comment is invited on the labor shortage occupational classifications and the geographic area listed in § 656.50 of the proposed rule. Commenters may propose that occupational classifications be added to the list or that those listed be removed. Commenters may make specific comments about subspecialties within each occupational classification. For example, commenters may indicate that a shortage exists of microbiologists but

there are sufficient biologists. However, in recommending the addition or deletion of occupations, commenters are asked to: provide statistical data and other documentation that specifically support their recommendations; and provide evidence that, as a result of the adoption of their recommendations, the interests of the State or local economy would be served or the wages and working conditions of local workers would be protected. This documentation should include data such as: The results of surveys or other research conducted by government agencies, employer or professional associations, unions, academic and research institutions or individual experts; and data on State or local unemployment, recent or impending layoffs, the availability of training or education programs, or information concerning other factors relevant to the existence of labor shortages in particular occupations or geographic areas.

If commenters are aware of an announced layoff or job cutbacks which affect an occupational classification or state on the list of shortage occupations, they should provide this information to the Department. In classifications, such as computer science, where announcements of layoffs have recently been made, commenters should provide information on the impacts of such layoffs, the types and levels of workers that have become available or are likely to become available, employer efforts to recruit qualified workers from the States affected by the layoffs, and what employer needs can not be met by laid off workers.

If occupations are added to the list in the final rule as a result of public comments on this Notice, a comparable number of occupations will be deleted from the list in order to assure that the statutory limit of 10 occupational classifications for the pilot test is observed.

Regulatory Impact

E.O. 12291

This rule does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order No. 12291, 3 CFR 1981 Comp., p. 127, 5 U.S.C. 601 note.

Regulatory Flexibility Act

The Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The information collection requirements contained in the proposed rule have been submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501, *et seq.*), and have been assigned OMB Control No. 1205–0015.

The LMI Pilot Program will significantly decrease the burden on employers filing applications under the shortage classifications because precertification of occupations eliminates requirements for employer recruitment and processing through State employment service agencies and DOL regional offices.

The Department estimates that up to 3,000 employers will file applications annually with INS under the shortage classifications. The public reporting burden for this collection of information is estimated to average one and a half hours per response, including reviewing the instructions, completing the application, and collecting the documentation on the alien's qualifications.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

Catalog of Federal Domestic Assistance Number

This program is listed in the Catalog of Federal Domestic Assistance at number 17.203, "Certification for Immigrant Workers."

List of Subjects in 20 CFR Part 656

Administrative practice and procedure, Aliens, Employment, Employment and Training Administration, Fraud, Labor, Unemployment, Wages.

Proposed Rule

Accordingly, it is proposed to amend part 656 of chapter V of title 20, Code of Federal Regulations, as follows:

PART 656—[AMENDED]

1. The authority citation for part 656 is revised to read as follows:

Authority: 8 U.S.C. 1182(a)(5)(A); 29 U.S.C. 49, *et seq.*; section 122, Public Law 101–649, 109 Stat. 4978.

§ 656.20 [Amended]

2. Section 656.20 is amended as follows:

a. In paragraph (a)(1) the phrase "(a)(2) through (4)" is removed and the phrase "(a) (2) through (5)" is added in lieu thereof.

b. New paragraph (a)(5) is added to read as follows:

§ 656.20 General filing instructions.

(a) * * *

(5) An employer filing a labor certification application on or before September 30, 1994, for an LMI Pilot labor shortage occupation shall apply for a labor certification pursuant to paragraphs (a), (b), (c), (e), and (f) of this section and subpart E of this part.

* * * * *

3. Subpart E is added to read as follows:

Subpart E—Labor Market Information Pilot Program

§ 656.50 Scope and purpose.

(a) The Director, U.S. Employment Service, has established a pilot program in accordance with section 122(a) of the Immigration Act of 1990 (IMMACT) which provides for a determination of labor shortages in 10 defined occupational classifications in the United States. In making such determinations, the Director has considered certifications approved under section 212(a)(5)(A) of the Immigration and Nationality Act and labor market and other information.

(b) Where there is a determination that there is a labor shortage with respect to an occupational classification, a certification under section 212(a)(5)(A) of the Immigration and Nationality Act for that occupational classification shall be deemed to be issued if the alien has the qualifications required for the occupational classification. See § 656.51 (a) and (b).

(c) Labor certifications in a labor shortage occupational classification can be granted only in States designated for that classification by the Director in § 656.51 (a) and (b).

(d) Designations of labor shortage occupational classifications under this subpart are applicable only to the LMI pilot program of the permanent labor certification program.

(e) The LMI pilot program shall apply to applications for certification filed on or before September 30, 1994.

§ 656.51 Labor shortage occupational classifications.

(a) *List of labor shortage occupational classifications and geographic areas.* The following occupational classifications in the following

geographic areas only are designated as labor shortage occupational classifications and are defined in § 656.51(b):

Shortage occupational classifications	Geographic areas
(1) Biological Science	California, Connecticut, Illinois, Kansas, Louisiana, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas, Washington.
(2) Chemistry	California, Massachusetts, Missouri, New Jersey, New York, Texas.
(3) Chemical Engineering.	Illinois, Massachusetts, Texas.
(4) Computer Science	Alabama, Arizona, Georgia, Illinois, Michigan, Missouri, Texas.
(5) Cook, Specialty, Foreign Food (Chinese and Japanese food only).	California, District of Columbia, Illinois, Maryland, Massachusetts, Pennsylvania, Texas, Virginia.
(6) Materials Engineering.	California, Michigan, Ohio, Pennsylvania.
(7) Mechanical Engineering.	Arizona, Texas.
(8) Medical Technology.	California, Illinois, New York, Texas.
(9) Physician, Primary Medical Care.	West Virginia.
(10) Teacher, Special Education.	New York.

(b) *Definitions and documentary requirements.* For purposes of this subpart, a labor shortage occupational classification shall include only those specific occupations listed in its definition in this paragraph (b). Each occupation shall be as defined by the Dictionary of Occupational Titles (Revised 4th Ed.) (DOT) as the nine-digit DOT Occupational code listed parenthetically after the occupational title. Where the occupation of Faculty Member, College or University, is listed in an occupational classification, the job offer shall involve the teaching of courses in the specific academic field(s) that have been identified as shortages for that occupational classification. The employer's offer of employment in the specific occupation shall require no less education and/or experience than that required of the alien to qualify for LMI Pilot labor certification in the occupation.

(1) *Biological science.* (i) *Definition.* This classification includes occupations concerned with the study of living organisms and their relationship to their environment; research in reproduction, growth and development, genetics, structure, life processes, behavior, and classification of living organisms and the application of the findings to the prevention of disease, economic utilization, and environmental impact. This definition shall include only the following occupations: Biologist (041.061–030), Biochemist (041.061–026), Microbiologist (041.061-058), Physiologist (041.061–078), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the biological science classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(2) *Chemistry.* (i) *Definition.* This classification includes occupations concerned with research in the chemical and physical properties and compositional changes of substances. Specialization generally occurs in one or more branches of chemistry such as organic chemistry, inorganic chemistry, physical chemistry, or analytical chemistry. This definition shall include only the following occupations: Chemist (022.061–010) and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the chemistry classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(3) *Chemical engineering.* (i) *Definition.* This classification includes occupations concerned with the designing of equipment and the development and improvement of processes for manufacturing chemicals and related products, utilizing principles and technology of chemistry, physics, mathematics, engineering, and related physical and natural sciences; conducts research to develop new and improved products such as gasoline, synthetic rubber, plastics, detergents, cements, paper and pulp. This definition shall include only the following occupations: Chemical Engineer (008.061–018), Chemical Design Engineer (008.061–018), Chemical Research Engineer (008.061–022), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the chemical engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(4) *Computer science.* (i) *Definition.* This classification includes occupations concerned with defining business, scientific, and engineering problems and designing their solutions using computers; analyzing user requirements, procedures, and problems to automate processing or to improve existing computer systems; conferring with personnel in organizational units involved to analyze current operational procedures; writing description of user needs, program functions, and steps required to develop or modify computer system; and researching, designing, and developing computer software systems, in conjunction with hardware product development, for medical, industrial, military, communications, aerospace, and scientific applications, applying principles and techniques of computer science, engineering, and mathematical analysis. This definition shall include only the following occupations: Computer Systems Analyst (030.167–014), Computer Software Engineer (030.062–010), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the computer science classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree, (or equivalent foreign degree) required for the occupation from an accredited college or university.

(5) *Cook, specialty, foreign food.* (i) *Definition.* This classification includes occupations concerned with planning menus and cooking foreign-style dishes, dinners, desserts, and other foods, according to recipes; preparing meats, soups, sauces, vegetables, and other

foods prior to cooking; seasoning and cooking food according to prescribed method; portioning and garnishing food; serving food to waiters on order; estimating food consumption and requisitioning or purchasing supplies. This definition shall include only the following occupations: Cook, Chinese-style food (313.361–030) and Cook, Japanese-style food (313.361–030).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the cook, specialty, foreign food classification shall file as part of its application an offer of employment in a table-service restaurant (i.e., waiter/waitress/server service at tables) that specializes in Chinese or Japanese cuisine, as appropriate, and documentation that the alien has at least four years of recent experience in the duties and food specialty in a table service restaurant.

(6) *Materials engineering.* (i) *Definition.* This classification includes occupations concerned with evaluating technical and economic factors, and recommending engineering and manufacturing actions for attainment of design objectives of process or product by applying knowledge of material science and related technologies: Reviewing plans for new products and factors, such as strength, weight and cost to submit material selection recommendations ensuring attainment of design objectives; planning and implementing laboratory operations to develop material and fabrication procedures to fulfill cost and performance standards; and reviewing product failure data and interpreting laboratory tests and analyses to establish or rule out material and process causes. This definition shall include only the following occupations: Materials Engineer (019.061–014), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the material engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(7) *Mechanical engineering.* (i) *Definition.* This classification includes occupations concerned with researching, planning, and designing mechanical and electromechanical products and systems, and directing and coordinating activities involved in fabrication, operation, application, installation, and repair of mechanical or electronic products or systems; researching and analyzing data, such as customer design proposal, specifications, and manuals to determine feasibility of design or application; designing products or systems, such as instruments, controls, robots, engines, machines, and mechanical, thermal, hydraulic, or heat transfer systems, applying knowledge of engineering principles. This definition shall include only the following occupations: Mechanical Engineer (007.061–014), Mechanical-design Engineer, Products (007.061–022), and Faculty Member, College or University (090.227–010).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the mechanical engineering classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Masters degree (or equivalent foreign degree) required for the occupation from an accredited college or university, and has two years of recent experience in the occupation; or holds a Ph.D. degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(8) *Medical technology.* (i) *Definition.* This classification includes occupations concerned with performing medical laboratory tests, procedures, experiments, and analyses to provide data for diagnosis, treatment, and prevention of disease; conducting chemical analyses of body fluids, such as blood, urine, and spinal fluid, to determine presence of normal and abnormal components; studying blood cells, their numbers, and morphology, using microscope technique; performing blood group, type and compatibility tests for transfusion purposes. This definition shall include only the following occupation: Medical Technologist (078.261–038).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the medical technology classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Baccalaureate degree (or equivalent foreign degree) required for the occupation from an accredited college or university.

(9) *Physician, primary medical care.* (i) *Definition.* This classification includes occupations concerned with practicing the art and science of medicine or surgery primarily in patient care; concerned with the diagnosis, prevention, and treatment of human diseases, disorders of the mind, and pregnancy; researches the causes, transmission, and control of diseases and other ailments. This definition shall include only the following specialties: General Practitioner (070.101–022), Family Practitioner (070.101–026), Gynecologist (070.101–034), Internist (070.101–042), Obstetrician (070.101–054), and Pediatrician (070.101–066).

(ii) *Documentation.* An employer seeking an LMI labor certification under the physician, primary medical care, classification shall file as part of its application an offer of employment in the medical specialty, and the following documentation which shows clearly that:

(A) The alien has passed the Foreign Medical Graduate Examination in the Medical Sciences (FMGEMS), Parts I and II of the National Board of Medical Examiners Examination (NBMEE), or the United States Medical Licensing Examination (USMLE); or

(B) The alien was on January 9, 1978, a doctor of medicine fully and permanently licensed to practice medicine in a State within the United States, and the alien was on January 9, 1978, practicing medicine in a State within the United States; or

(C) The alien is a graduate of a school of medicine accredited by a body or bodies approved for the purpose by the Secretary of Education or that Secretary's designee (regardless of whether such a school of medicine is in the United States).

(10) *Teacher, special education.* (i) *Definition.* This classification includes occupations concerned with the following: using specialized techniques and procedures to teach persons with disabilities; teaching persons with visual impairments to read books imprinted in braille and to develop their sense of touch; instructing persons who are hearing impaired in sign language and lip reading; and instructing persons with mental, neurological, and emotional disabilities. This definition shall include only the following occupations: Teacher, Hearing Impaired (094.224–010); Teacher, Physically Impaired (094.224–014); Teacher, Visually Impaired (094.224–018); Teacher, Emotionally Impaired (094.227–010); Teacher, Mentally Impaired (094.227–022); Teacher, Learning Disabled (094.227–030).

(ii) *Documentation.* An employer seeking an LMI pilot labor certification under the teacher, special education, classification shall file as part of its application an offer of employment in the specific nine-digit occupation and documentation that the alien holds a United States Baccalaureate degree (or

equivalent foreign degree) required for the occupation from an accredited college or university, and holds a permanent or provisional certificate to teach in the occupation in the jurisdiction in which the job is offered.

§ 656.52 Procedures.

(a) *Filing requirements.*

(1) An employer shall apply for a labor certification for a designated labor shortage occupation by filing an *Application for Alien Employment Certification* form, ETA 750, including the required supporting documentation, in triplicate with the appropriate Immigration and Naturalization Service (INS) office, not with the Department of Labor or a State Employment Service office.

(2) A complete application under this section shall include the following:

(i) A completed *Application for Alien Employment Certification* form (ETA 750) including Part A, Offer for Alien Employment, and Part B, Statement of Qualifications of Alien. There is no need for the employer to provide the documentation required under § 656.21 for occupations processed under the basic process.

(ii) Documentary evidence to show that the alien has the qualifications required at § 656.51(b) for a particular labor shortage occupational classification.

(b) *Determinations.* (1) An INS Immigration Officer shall review the job offer and the alien's qualifications, and shall determine whether the employer and alien have met the applicable requirements of §§ 656.20 and 656.51 (a) and (b).

(2) The INS Officer may request from the Division of Foreign Labor Certifications, United States Employment Service, Washington, DC 20210, an advisory opinion as to whether the job opportunity involves a labor shortage occupational classification and/or whether the alien qualifies for the labor shortage classification.

(3) The labor shortage determination of INS shall be conclusive and final. The employer, therefore, may not use the review procedures at § 656.26.

(4) If the job opportunity involves a labor shortage occupational classification and the alien qualifies for the classification, the INS Officer shall approve the application. The INS Officer shall then promptly forward copies of Parts A and B of the *Application for Alien Employment Certification* form (ETA 750), without attachments, to the Division of Foreign Labor Certifications, United States Employment Service, Washington, DC 20210, indicating thereon the occupational classification, the INS office making the labor shortage determination, and the date of the determination.

(5) If the job opportunity and/or the alien does not qualify for certification in a labor shortage occupational classification, the U.S. employer may apply for an individual labor certification on the alien's behalf under the basic labor certification process at § 656.21.

Signed at Washington, DC, this 15th day of March, 1993.

Robert B. Reich,

Secretary of Labor.

[FR Doc. 93–6363 Filed 3–18–93; 8:45 am]

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federal register

Friday
March 19, 1993

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Terminal Airspace Reconfiguration; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 26852; Amendment No. 71–16]

RIN 2120–AE18

Terminal Airspace Reconfiguration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; technical amendment.

SUMMARY: This action amends the Terminal Airspace Reconfiguration final rule, which was published in the **Federal Register** on August 27, 1992. This action amends technical errors in certain airspace descriptions contained in FAA Order 7400.7A, Compilation of Regulations, and FAA Order 7400.9, Airspace Reclassification. This action also ensures that Class E airspace is designated above a Class B, Class C, or Class D airspace area. The intent of this action is to correct these technical errors prior to the implementation of the Airspace Reclassification final rule on September 16, 1993.

EFFECTIVE DATE: Amendatory items 1 and 2 are effective April 29, 1993, through September 15, 1993. Amendatory items 3 and 4 are effective September 16, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP–230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9251.

SUPPLEMENTARY INFORMATION:

Background

On August 27, 1992, the Terminal Airspace Reconfiguration final rule was published in the **Federal Register** (57 FR 38962). This rule amended part 71 of the Federal Aviation Regulations (14 CFR) by revising all control zones and transition areas as well as specific terminal control areas (TCAs) and airport radar service areas (ARSAs) described in FAA Order 7400.7, Compilation of Regulations, effective November 1, 1991. This final rule also modified the corresponding Class B, Class C, Class D, and Class E airspace descriptions in FAA Order 7400.9, Airspace Reclassification, effective September 16, 1993. Since the issuance of this final rule, the FAA has issued FAA Handbook 7400.7A, Compilation of Regulations, effective November 27, 1992. through September 15, 1993 (57 FR 56246; November 27, 1992), which is incorporated by reference in 14 CFR 71.1.

During reviews of the airspace descriptions that were promulgated in the Terminal Airspace Reconfiguration final rule, the FAA found some minor errors. This amendment will correct these errors.

The Amendment

The FAA, including each regional office, and the National Ocean Service (NOS) have continued to review each of more than 3,100 airspace descriptions that were promulgated in the Terminal Airspace Reconfiguration final rule.

During the review, minor errors were noted. Many could be found only after the airspace areas were depicted on aeronautical charts. Some of the errors would have inadvertently created airspace that would have become an incorrect class of airspace on September 16, 1993. In some of these cases, this amendment designates airspace that will become Class E airspace in an area that otherwise would have become the more restrictive Class D airspace.

In addition, during the review the FAA noted that § 71.71, which describes Class E airspace and becomes effective September 16, 1993, needs a minor revision. Class E airspace extends upward from the surface to the overlying or adjacent controlled airspace. However, the strict application of this definition would leave a corridor of uncontrolled airspace above a Class B, Class C, or Class D airspace area because the Class E airspace ends beneath the more restrictive airspace. Therefore, the FAA has revised § 71.71(c). The revision designates Class E airspace above a Class B, Class C, or Class D airspace area for the purpose of transitioning to or from the terminal or en route environment.

Airport radar service areas (ARSA's), control zones, and transition areas are published in sections 71.501, 71.171, and 71.181, respectively, of FAA Order 7400.7A dated November 2, 1992, and effective November 27, 1992, which is incorporated by reference in 14 CFR 71.1. The ARSA's, control zones, and transition areas listed in this document will be published subsequently in the Order.

The FAA has determined that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation because the anticipated impact is so minimal.

This action amplifies and clarifies the existing rule and does not place any new restriction or requirements on the public. Furthermore, the FAA finds that this amendment does not involve a change in the dimensions or operating requirements of the airspace listings incorporated by reference in part 71. These errors are insignificant in nature and impact and inconsequential to the industry and public. Therefore, notice and public procedure under 5 U.S.C. 533(b) are unnecessary.

Control Zones for the Primary Airport of an ARSA

The FAA amends the airspace descriptions of the following control zones for the primary airport of an ARSA in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: New England

Providence, Rhode Island: The airspace description is revised by excluding the airspace that extends into the North Kingstown, Rhode Island control zone from the extension for instrument approaches to the Providence, Theodore Francis Green State Airport.

FAA Region: Northwest Mountain

Portland, Oregon: The airspace description is revised by excluding the airspace that extends into the Portland, Troutdale Airport, Oregon control zone.

FAA Region: Western Pacific

El Toro Marine Corps Air Station, California: The airspace description is revised by changing the geographic position of El Toro Marine Corps Air Station from "lat. 33° 40'03"N., long. 117° 43'09"W." to "lat. 33°40'34"N., long. 117°43'52"W."

Airport Radar Service Areas

The FAA amends the airspace descriptions of the following ARSAs in Section 71.501 of FAA Order 7400.7A.

FAA Region: Northwest Mountain

Whidbey Island Naval Air Station, Washington: The airspace description is revised by adding language that notes the ARSA operates on a part-time basis. The ARSA now operates on a part-time basis in accordance with airspace docket number 92–AWA–04.

FAA Region: Western Pacific

El Toro Marine Corps Air Station, California: The airspace description is revised by changing the geographic position of El Toro Marine Corps Air Station from "lat. 33°40'03"N., long. 117°43'09"W." to "lat. 33°40'34"N., long. 117°43'52"W."

Control Zones for Airports With Operating Control Towers That Are Not the Primary Airport Within a TCA or an ARSA

The FAA amends the airspace descriptions of the following control zones for airports with operating control towers that are not the primary airport of a TCA or an ARSA in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Fairbanks, Fort Wainwright Army Air Field, Alaska: The airspace description is revised by excluding certain airspace northwest of the airport from the area necessary for aircraft operating under instrument flight rules (IFR) to depart within controlled airspace.

FAA Region: Central

Sioux City, Iowa: The airspace description is revised by excluding the airspace within a 1-mile radius of the South Sioux City, Martin Field, Nebraska, from the control zone. This change will not require pilots who operate aircraft in the vicinity of Martin Field to establish two-way radio communications with air traffic control.

Wichita, McConnell Air Force Base, Kansas: The airspace description is revised by excluding the airspace within a 1-mile radius of the Derby, Hamilton Field, Kansas, from the control zone. This change will not require pilots who operate aircraft in the vicinity of Hamilton Field to establish two-way radio communications with air traffic control.

FAA Region: Eastern

Patuxent River, Maryland: The airspace description is revised by ensuring that the airspace in the vicinity of the Chesapeake Ranch Airport is within the airspace for aircraft operating under IFR to depart within controlled airspace.

Manassas, Virginia: This airspace description, which was inadvertently omitted from FAA Order 7400.7A, is added. The airspace description is also revised by dividing the control zone into two areas. One area includes the airspace necessary for aircraft departing from the Manassas Municipal/Harry P. Davis Airport to depart within control airspace, which will become Class D airspace on September 16, 1993. The other area includes the airspace necessary for instrument approaches, which will become Class E airspace on September 16, 1993.

Fort Belvoir, Virginia: The airspace description is revised by lowering the ceiling from "up to and including 2,600 feet mean sea level (MSL)" to "up to, but not including, 2,500 feet MSL," which ensures the ceiling does not penetrate the Washington Tri-Area TCA. The description is also revised by excluding the airspace that extends into the Washington Tri-Area TCA from the control zone.

FAA Region: Great Lakes

Glenview Naval Air Station, Illinois: The airspace description is revised by adding the arrival extensions for runway 17, which were inadvertently deleted.

FAA Region: New England

Beverly, Massachusetts: The airspace description is revised by excluding airspace that extends into the Boston, Massachusetts TCA and the Lawrence, Massachusetts control zone from the area necessary for aircraft operating under IFR to depart within controlled airspace, which will become Class D airspace on September 16, 1993. The airspace description is also revised by excluding airspace that extends into the Lawrence, Massachusetts control zone from the extension used for instrument approaches, which becomes Class E airspace on September 16, 1993.

Lawrence, Massachusetts: The airspace description is revised by eliminating the clause that excludes the airspace that extends into the Beverly, Massachusetts control zone.

North Kingstown, Rhode Island: The airspace description is revised by eliminating the clause that excludes the airspace that extends into the Providence, Rhode Island control zone. The existing clause, which excludes airspace in the Providence, Rhode Island ARSA from the North Kingstown, Rhode Island control zone, excludes the same airspace area.

FAA Region: Northwest Mountain

Portland, Troutdale Airport, Oregon: The airspace description is revised by changing the reference to the Portland International Airport, Oregon control zone, which will cease to exist on September 16, 1993, to the Portland International Airport, Oregon ARSA.

Tacoma, Tacoma Narrows Airport, Washington: The airspace description is revised by including the airspace east of a line 1.8 miles east of and parallel to the 009° bearing from the Graye NDB in the Tacoma Narrows control zone. This airspace was inadvertently excluded from the airspace area.

FAA Region: Southern

Orlando, Executive Airport, Florida: The airspace description is revised by lowering the ceiling from "up to and including 2,600 feet MSL" to "up to, but not including, 1,600 feet MSL," which ensures the ceiling does not penetrate the Orlando, Florida TCA.

Winston-Salem, North Carolina: The airspace description is revised by raising the ceiling from "2,700 feet MSL" to "3,500 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

FAA Region: Southwest

Enid, Vance Air Force Base, Oklahoma: The airspace description is revised by raising the ceiling from "2,800 feet MSL" to "3,800 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

Enid, Woodring Municipal Airport, Oklahoma: The airspace description is revised by raising the ceiling from "2,800 feet MSL" to "3,800 feet MSL." The higher ceiling is the equivalent of 2,500 feet above the surface, which is the standard ceiling for control zones that will become Class D airspace.

Lawton, Oklahoma: The airspace description is revised by dividing the control zone into two areas. One area includes the airspace necessary for aircraft departing from Lawton Municipal Airport or Henry Post Army Air Field to depart within controlled airspace, which will become Class D airspace on September 16, 1993. The other area includes the airspace necessary for instrument approaches, which will become Class E airspace on September 16, 1993.

Dallas, Addison Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,100 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Dallas, Redbird Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,200 feet MSL" to "up to, but not including, 2,500 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Fort Worth, Alliance Airport, Texas: The airspace description is revised by lowering the ceiling from "up to and including 3,200 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Dallas-Fort Worth, Texas TCA.

Houston, David Wayne Hooks Memorial Airport, Texas: The airspace

description is revised by lowering the ceiling from "up to and including 2,700 feet MSL" to "up to, but not including, 2,000 feet MSL," which ensures that the ceiling does not penetrate the Houston, Texas TCA.

FAA Region: Western Pacific

El Centro, Naval Air Field, California: The airspace description is revised by eliminating the clause that excludes airspace that extends into restricted area R–2510. The El Centro control zone and R–2510 do not overlap.

San Diego, Gillespie, California: The airspace description is revised by deleting the exclusion of the Montgomery Field control zone which eliminates the arrival extension to the Montgomery Field control zone from preempting the surface area of the Gillespie control zone.

San Diego, Montgomery Field, California: The airspace description is revised by excluding the airspace that extends into the San Diego, California TCA and the San Diego-Gillespie, California control zone from the extension for instrument approaches.

Van Nuys, California: The airspace description is revised by lowering the ceiling from "up to and including 3,300 feet MSL" to "up to, but not including, 3,000 feet MSL," which ensures that the ceiling does not penetrate the Burbank-Glendale-Pasadena, California ARSA.

Control Zones for Airports Without Operating Control Towers

The FAA amends the airspace descriptions of the following control zones for airports without operating control towers in § 71.171 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Homer, Alaska: The airspace description is revised by changing the bearing from the Kachemak NDB, from 200° to 220°.

Talkeetna, Alaska: The airspace description is revised by moving the extension for instrument approaches from northeast to the southwest, which was moved by 180° in error.

FAA Region: Northwest Mountain

Sheridan, Wyoming: The airspace description is revised by eliminating the language that notes the control zone is active on a part-time basis. The control zone now operates on a full-time basis in accordance with airspace docket number 92–ANM–04.

Worland, Wyoming: The airspace description is revised by eliminating the language that notes the control zone is active on a part-time basis. The control zone now operates on a full-time basis in accordance with airspace docket number 92–ANM–05.

Transition Areas

The FAA amends the airspace descriptions of the following transition areas in § 71.181 of FAA Order 7400.7A.

The technical corrections to these airspace descriptions are described below.

FAA Region: Alaskan

Barrow, Alaska: The airspace description is revised by eliminating the clause that excludes airspace more than 12 miles from the shoreline. The area does not extend beyond 12 miles from the shoreline. The airspace description is also revised by changing the clause that refers to the Barrow, Alaska control zone to indicate the control zone operates on a full-time basis as opposed to a part-time basis.

King Salmon, Alaska: The airspace description is revised by eliminating the portion at and above 14,500 feet MSL, which is unnecessary. The airspace description is also revised by eliminating a clause that excludes certain airspace associated with the portion at and above 14,500 feet MSL.

Sitka, Alaska: The airspace description is revised by moving the extension for instrument approaches to correspond with the Sitka localizer frontcourse as opposed to the backcourse.

FAA Region: Eastern

Chantilly, Virginia: The airspace description is revised by converting distances in statute miles to the nearest equivalent in nautical miles.

FAA Region: Great Lakes

Three Rivers, Michigan: The airspace description is revised by eliminating a clause that excludes airspace that extends into the Kalamazoo/Battle Creek, Michigan ARSA. The proposal to establish this ARSA has been withdrawn.

Williston, North Dakota: The airspace description is revised by eliminating a clause that excludes the Watford City, North Dakota and New Town, North Dakota transition areas. The Williston transition area does not overlap these Watford City or New Town transition areas.

FAA Region: New England

Kennebunkport, Maine: The airspace description is revised by eliminating one of the extensions that is necessary of instrument approaches. The same airspace is described elsewhere.

FAA Region: Southern

Thomasville, Georgia: This airspace description, which was inadvertently omitted from the Terminal Airspace Reconfiguration final rule, is added.

FAA Region: Southwest

Venice, Louisiana: The airspace description is revised to include the airspace necessary for helicopters on a standard instrument approach, which was inadvertently eliminated.

Breckenridge, Texas: The airspace description is revised by changing the bearing from the Breckenridge RBN from 339° to 359° true.

Monahans, Texas: The airspace description is revised by changing the radial from the Wink VORTAC from 126° to 136°.

List of Subjects in 14 CFR Part 71

Airport radar service areas, Airspace, Control zones, Incorporation by reference, Transition areas.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 71 (14 CFR part 71) as follows:

The following amendments are to part 71 currently in effect:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS, JET ROUTES, AND AREA HIGH ROUTES

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.7A, *Compilation of Regulations*, dated November 2, 1992, and effective November 27, 1992, is amended as follows:

Section 71.171 Designation of Control Zones

* * * * *

AAL AK CZ Fairbanks, Fort Wainwright AAF, AK

Fairbanks, Fort Wainwright AAF, AK
(lat. 64°50'11" N., long. 147°37'01" W.)
Fairbanks VORTAC
(lat. 64°48'00" N., long. 148°00'43" W.)
Chena NDB
(lat. 64°50'17" N., long. 147°29'24" W.)

That airspace extending upward from the surface within a 5.3-mile radius of the Fort Wainwright AAF Airport, excluding the portion north and west of a line from lat.

64°45'14" N., long. 147°41'16" W.; to lat. 64°51'10" N., long. 147°44'09" W.; to lat. 64°54'48" N., long. 147°30'57" W.; and that airspace extending upward from the surface within 2.4 miles each side of the Chena NDB 089° bearing extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 10.1 miles east of the Fort Wainwright AAF Airport and within 1.8 miles north of the Fairbanks VORTAC 078° radial extending from the 5.3-mile radius of the Fort Wainwright AAF Airport to 9.9 miles east of the Fort Wainwright AAF Airport; excluding the portion of the arrival extension south of a line from lat. 64°48'52" N., long. 147°12'04" W.; to lat. 64°47'27" N., long. 147°25'56" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

AAL AK CZ Homer, AK
Homer Airport, AK
(lat. 59°38'42" N., long. 151°28'42" W.)
Kachemak NDB
(lat. 59°38'28" N., long. 151°30'00" W.)

Within a 4.2-mile radius of the Homer Airport and within 2.5 miles each side of the 220° bearing from the Kachemak NDB extending from the 4.2-mile radius to 7.7 miles southwest of the airport; excluding that airspace north of a line from lat. 59°42'26"N., long. 151°24'56"W.; to lat. 59°38'35"N., long. 151°36'58"W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

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AAL AK CZ Talkeetna, AK
Talkeetna Airport, AK
(lat. 62°19'18"N., long. 150°05'38"W.)
Talkeetna VOR/DME
(lat. 62°17'55"N., long. 150°06'20"W.)

Within a 3.9-mile radius of the Talkeetna Airport and within 3.3 miles each side of the Talkeetna VOR/DME 190° radial extending from the 3.9-mile radius to 12.5 miles southwest of the airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

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ACE IA CZ Sioux City, IA
Sioux City, Sioux Gateway Airport, IA
(lat. 42°24'14"N., long. 96°23'01"W.)
Sioux City VORTAC
(lat. 42°20'40"N., long. 96°19'25"W.)
South Sioux City, Martin Field, NE
(lat. 42°27'15"N., long. 96°28'21"W.)

That airspace extending upward from the surface to and including 3,600 feet MSL within a 4.3-mile radius of Sioux Gateway Airport excluding that airspace within a 1-mile radius of the South Sioux City, Martin Field, NE.; and that airspace extending upward from the surface within 2.2 miles each side of the 140° radial of the Sioux City VORTAC extending from the 4.3-mile radius of Sioux Gateway Airport to 5.3 miles southeast of the VORTAC. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ACE KS CZ Wichita, McConnell Air Force Base, KS
Wichita McConnell Air Force Base, KS
(lat. 37°37'23"N., long. 97°16'03"W.)
McConnell TACAN
(lat. 37°37'07"N., long. 97°15'47"W.)
Derby, Hamilton Field, KS
(lat. 37°33'38"N., long. 97°14'01"W.)

That airspace extending upward from the surface to and including 3,900 feet MSL within a 4.5-mile radius of McConnell Air Force Base excluding that airspace within the Wichita Mid-Continent Airport, KS, Airport Radar Service Area and that airspace within a 1-mile radius of the Derby, Hamilton Field, Kansas; and that airspace extending upward from the surface within 1.8 miles west and 3.5 east of the McConnell TACAN 008° radial extending from the 4.5-mile radius of McConnell Air Force Base to 6.1 miles north of the TACAN and within 1.8 miles each side of the McConnell TACAN 199° radial extending from the 4.5-mile radius of McConnell Air Force Base to 5.3 miles south of the TACAN;

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AEA MD CZ Patuxent River, MD
Patuxent River NAS (Trapnell Field), MD
(lat. 38°17'30"N., long. 76°24'59"W.)
Patuxent VORTAC
(lat. 38°17'16"N., long. 76°24'01"W.)
Patuxent River NDB
(lat. 38°17'09"N., long. 76°24'11"W.)
Chesapeake Ranch Airpark, MD
(lat. 38°21'40"N., long. 76°24'19"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.5-mile radius of Patuxent River NAS (Trapnell Field) and within a 0.5-mile radius of Chesapeake Ranch Airpark; and that airspace extending upward from the surface within 1.8 miles each side of the Patuxent VORTAC 045° radial extending from the 4.5-mile radius of Patuxent River NAS (Trapnell Field) to 6.1 miles northeast of the VORTAC and within 1.8 miles each side of the Patuxent VORTAC 235° radial extending from the 4.5-mile radius to 6.6 miles southwest of the VORTAC and within 1.8 miles each side of the Patuxent River NDB 233° bearing extending from the 4.5-mile radius to 6.1 miles southwest of the NDB and within 1.8 miles each side of the Patuxent VORTAC 140° radial extending from the 4.5-mile radius to 10.5 miles southeast of the VORTAC.

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AEA VA CZ Fort Belvoir, VA
Davison AAF, Fort Belvoir, VA
(lat. 38°42'55"N., long. 77°10'54"W.)
DAVEE OM
(lat. 38°39'42"N., long. 77°06'37"W.)

That airspace extending upward from the surface to, but not including 2,500 feet MSL within a 4.4-mile radius of Davison AAF and within 1 mile each side of the Davison AAF localizer southeast course extending from the 4.4-mile radius to the DAVEE OM and within 1.8 miles each side of the extended centerline of Runway 14/32 extending from the northwest end of Runway 14/32 to 4.4 miles northwest, excluding the portion within Prohibited Area P–73 and the Washington Tri-Area Terminal Control Area. This control zone is effective during specific times and dates established in advance by a Notice to Airmen. The specific date and time will thereafter be published continuously in the Airport/Facility Directory.

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AEA VA CZ Manassas, VA
Manassas Municipal/Harry P. Davis Airport, VA
(lat. 38°43'17"N., long. 77°30'56"W.)
Armel VORTAC
(lat. 38°56'05"N., long. 77°28'00"W.)

That airspace extending upward from the surface to, but not including, 2,000 feet MSL within a 4-mile radius of the Manassas Municipal/Harry P. Davis Airport, excluding that airspace within the Washington Tri-Area Terminal Control Area; and that airspace extending upward from the surface within 2.6 miles either side of a bearing 025° from the Manassas Municipal/Harry P. Davis Airport extending from a 4-mile radius of the airport to 7.5 miles northeast of the airport, excluding that airspace within the Washington Tri-Area Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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AGL IL CZ Glenview, IL
NAS Glenview, IL
(lat. 42°05'00" N., long. 87°49'06" W.)
Northbrook VORTAC
(lat. 42°13'26" N., long. 87°57'06" W.)
Chicago-O'Hare International Airport, IL
(lat. 41°58'46" N., long. 87°54'16" W.)
Glenview TACAN
(lat. 42°05'08" N., long. 87°49'21" W.)

That airspace extending upward from the surface to but not including 3,000 feet MSL within a 4.1-mile radius of NAS Glenview and within 1.8 miles each side of the Northbrook VORTAC 162° and 145° radials extending from the Chicago-O'Hare International Airport and the NAS Glenview 4.1-mile radius to 1.8 miles south along the 162° radial of the Northbrook VORTAC and 3.8 miles southeast along the 145° radial of the Northbrook VORTAC, and within 1.7 miles each side of the NAS Glenview TACAN 100° radial, extending from the NAS Glenview 4.1-mile radius zone to 5.7 miles east of the TACAN, excluding that airspace within the Chicago, IL, Terminal Control Area.

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ANE MA CZ Beverly, MA
Beverly Municipal Airport, MA
(lat. 42°35'03" N., long. 70°55'01" W.)
Lawrence VOR/DME

(lat. 42°44'26" N., long. 71°05'41" W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.1-mile radius of Beverly Municipal Airport, excluding that airspace within the Boston, MA, Terminal Control Area; and that airspace extending upward from the surface within 3.2 miles each side of the Lawrence VOR/DME 137° radial, extending from the 4.1-mile radius to 9.8 miles northwest of the Beverly Municipal Airport, excluding that airspace within the Lawrence, MA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANE MA CZ Lawrence, MA
Lawrence Municipal Airport, MA
(lat. 42°43'02"N., Long. 71°07'24"W.)
Lawrence VOR/DME
(lat. 42°44'26"N., long. 71°05'41"W.)
Beverly Municipal Airport, MA
(lat. 42°35'03"N., long. 70°55'01"W.)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4-mile radius of the Lawrence Municipal Airport and within 1.2 miles each side of the Lawrence VOR/DME 041° radial extending from the 4-mile radius to 3 miles northeast of the Lawrence VOR/DME; excluding that airspace within the Boston, MA, 700 foot Transition Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ANE RI CZ North Kingstown, RI
North Kingstown, Quonset State Airport, RI
(lat. 41°35'48"N., long. 71°24'43"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Quonset State Airport, and within 1.7 miles each side of the Quonset State Airport 171° bearing extending from the 4.3-mile radius to 5.2 miles south of the airport, excluding that airspace within the Providence Theodore Francis Green State Airport, RI, Airport Radar Service Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

ANE RI CZ Providence, RI
Providence, Theodore Francis Green State Airport, RI
(lat. 41°43'30"N., long. 71°25'40"W.)
Providence VORTAC
(lat. 41°43'28"N., long. 71°25'47"W.)

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of Theodore Francis Green State Airport; and that airspace extending upward from the surface up to but not including 1,300 feet MSL within 3.3 miles each side of Providence VORTAC 132° radial extending from the 5-mile radius to 8.4 miles southeast of Providence VORTAC; and that airspace extending upward from the surface up to but not including 1,700 feet MSL within 3.8 miles each side of the Theodore Francis Green State Airport 211° bearing extending from the 5-mile radius to 15 miles southwest of Theodore Francis Green State Airport, excluding the airspace within the North Kingstown, RI, Control Zone.

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ANM OR CZ Portland, OR
Portland International Airport, OR
(lat. 45°35'19"N., long. 122°35'51"W.)
Evergreen Airport, OR
(lat. 45°37'19"N., long. 122°31'45"W.)
Battleground VORTAC
(lat. 45°44'52"N., long. 122°35'26"W.)
Laker NDB
(lat. 45°32'29"N., long. 122°27'44"W.)
OM
(lat. 45°37'24"N., long. 122°41'48"W.)
Pearson Airpark
(lat. 45°37'14"N., long. 122°39'30"W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Portland International Airport and that airspace extending upward from the surface up to but not including 1,800 feet MSL within 1.8 miles each side of the Battleground VORTAC 180° radial extending from the 5-mile radius to 3.1 miles south of the VORTAC and within 2.2 miles each side of the Portland Runway 10R ILS localizer west course extending from the 5-mile radius to 0.9 miles west of the OM; and that airspace extending upward from the surface up to but not including 1,700 feet MSL within 1.8 miles north and 2.7 miles south of the 299° bearing from the Laker NDB extending from the 5-mile radius to the NDB, excluding that airspace within a 1-mile radius of Evergreen Airport and that airspace from the 003° bearing from Evergreen Airport clockwise to the 105° bearing from Evergreen Airport, and excluding that airspace west of the east bank of the Willamette River; and excluding that airspace up to but not including 1,100 feet MSL in an area bounded by a line beginning at the point where the 019° bearing from Pearson Airpark intersects the 5-mile area from Portland International Airport extending southeast to a point 1.5 miles east of Pearson Airpark on the extended centerline of Runway 8/26 and thence south to the north shore of the Columbia River and thence west via the north shore of the Columbia River to the 5-mile arc from Portland International Airport and excluding that airspace within the Portland-Troutdale, OR, Control Zone during the dates and times it is effective.

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ANM OR CZ Portland-Troutdale, OR
Portland-Troutdale Airport, OR
(lat. 45°32'57"N., long. 122°24'04"W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4-mile radius of the Portland-Troutdale Airport, excluding the portion within the Portland International Airport, OR, Airport Radar Service Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ANM WA CZ Tacoma Narrows Airport, WA
Tacoma Narrows Airport, WA
(lat. 47°16'04"N., long. 122°34'41"W.)
Graye NDB
(lat. 47°09'01"N., long. 122°36'17"W.)
Scenn OM
(lat. 47°21'28"N., long. 122°33'44"W.)

That airspace extending upward from the surface to and including 2,800 feet MSL within a 4-mile radius of the Tacoma Narrows Airport; and that airspace extending upward from the surface within 1.8 miles each side of the 009° bearing from the Graye NDB extending from the 4-mile radius to 0.9 miles north of the NDB, and within 1.8 miles each side of the 187° bearing from Scenn OM extending from the 4-mile radius to 1 mile south of the OM; excluding that airspace within the Tacoma, McChord AFB, WA, Control Zone. This control zone is effective during the specific dates and times established in advanced by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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ANM WY CZ Sheridan, WY
Sheridan County Airport, WY
(lat. 44°46'26"N., long. 106°58'37"W.)
Sheridan VORTAC
(lat. 44°50'32"N., long. 107°03'40"W.)

Within a 4.4-mile radius of the Sheridan County Airport, and within 3.5 miles each side of the Sheridan VORTAC 312° and 327° radials extending from the 4.4-mile radius to 10.1 miles northwest of the VORTAC, and within 3.5 miles each side of the Sheridan VORTAC 140° radial extending from the 4.4-mile radius to 21.4 miles southeast of the VORTAC.

ANM WY CZ Worland, WY
Worland Municipal Airport, WY
(lat. 43°57'56"N., long. 107°57'01"W.)
Worland VOR/DME
(lat. 43°57'51"N., long. 107°57'03"W.)

Within a 4.2-mile radius of the Worland Municipal Airport, and within 3 miles each side of the Worland VOR/DME 352° radial extending from the 4.2-mile radius to 10.5 miles north of the VOR/DME.

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ASO FL CZ Orlando, FL
Orlando Executive Airport, FL
(lat. 28°32'44"N., long. 81°19'58"W.)
Orlando VORTAC
(lat. 28°32'34"N., long. 81°20'06"W.)

That airspace extending upward from the surface to, but not including, 1,600 feet MSL within a 4-mile radius of Orlando Executive Airport and within 3.6 miles each side of Orlando VORTAC 254° radial extending from the 4-mile radius to 8.1 miles west of the VORTAC; excluding that portion within the Orlando, FL, Terminal Control Area.

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Winston-Salem, NC
Winston-Salem, Smith Reynolds Airport, NC
(lat. 36°08'01"N., long. 80°13'19"W.)

That airspace extending upward from the surface to and including 3,500 feet MSL

within a 4.2-mile radius of Smith Reynolds Airport.

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ASW OK CZ Enid Vance AFB, OK
Enid, Vance AFB, OK
(lat. 36°20'23"N., long. 97°54'58"W.)
Vance VORTAC
(lat. 36°20'44"N., long. 97°55'08"W.)
Enid, Woodring Municipal Airport, OK
(lat. 36°22'45"N., long. 97°47'28"W.)
Woodring VOR/DME
(lat. 36°22'26"N., long. 97°47'17"W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 5.1-mile radius of Vance AFB and within a 4.1-mile radius of Woodring Municipal Airport; and that airspace extending upward from the surface within 1.3 miles each side of the 188° radial of the Vance VORTAC extending from the 5.1-mile radius to 6.1 miles south of the airport and within 2.1 miles each side of the 355° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.8 miles north of the airport and within 2 miles each side of the 185° radial extending from the 4.1-mile radius to 5.5 miles south of the airport; excluding that portion of airspace east of long. 97°51'01" W., when the Enid, Woodring Municipal Airport, OK, Control Zone is in effect. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

ASW OK CZ Enid Woodring Municipal Airport, OK
Enid, Woodring Municipal Airport, OK
(lat. 36°22'45" N., long. 97°47'28" W.)
Woodring VOR/DME
(lat . 26°22'26" N., long. 97°47'17" W.)

That airspace extending upward from the surface to and including 3,800 feet MSL within a 4.1-mile radius of Woodring Municipal Airport; and that airspace extending upward from the surface within 2.1 miles each side of the 355° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.8 miles north of the airport and within 2 miles each side of the 185° radial of the Woodring VOR/DME extending from the 4.1-mile radius to 5.5 miles south of the airport; excluding that portion of airspace west of long. 97°51'01" W. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW OK CZ Lawton, OK
Lawton Municipal Airport, OK
(lat. 34°34'04" N., long. 98°25'00" W.)
Fort Sill, Henry Post AAF, OK
(lat. 34°39'00" N., long. 98°24'07" W.)
Trail NDB
(lat. 34°46'53" N., long. 98°24'08" W.)
Lawton VOR/DME
(lat. 34°29'46" N., long. 98°24'47" W.)

That airspace extending upward from the surface to and including 3,700 feet MSL within a 4.3-mile radius of Lawton Municipal Airport within a 4-mile radius of Henry Post AAF, excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated; and that airspace extending upward from the surface within 1.3 miles each side of the 181° bearing from the Trail NDB extending from the 4-mile radius of the Henry Post AAF to 6.2 miles north of the Henry Post AAF and within 1.2 miles each side of the 003° radial of the Lawton VOR/MDE extending from the 4-mile radius of the Henry Post AAF to 4.7 miles north of the Henry Post AAF excluding that airspace within Restricted Areas R–5601A and R–5601B when these restricted areas are activated. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Dallas Addison Airport, TX
Dallas, Addison Airport, TX
(lat. 32°58'06" N., long. 96°50'11" W.)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4.4-mile radius of Addison Airport excluding the portion south of a line from lat. 32°59'30"N., long. 96°55'31"W.; to lat. 32°56'30"N., long. 96°51'31"W.; to lat. 32°54'00"N., long. 96°46'31"W.; excluding that portion within the Dallas-Fort Worth, TX Terminal Control Area. This control zone shall be effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Dallas Redbird Airport, TX
Dallas, Redbird Airport, TX
(lat. 32°40'51"N., long. 96°52'06"W.)
Redbird RBN
(lat. 32°40'37"N., long. 96°52'16"W.)

That airspace extending upward from the surface to, but not including, 2,500 feet MSL within a 4.2-mile radius of Redbird Airport and within 2.1 miles each side of the 165° bearing from the Redbird RBN extending from the 4.2-mile radius to 4.7 miles south of the airport excluding that airspace west of a line from lat. 32°37'40"N., long. 96°55'21"W.; to lat. 32°39'35"N., long. 96°54'16"W.; to lat. 32°44'20"N., long. 96°53'59"W.; excluding that airspace within the Dallas-Fort Worth, TX, Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Fort Worth Alliance Airport, TX
Fort Worth Alliance Airport, TX
(lat. 32°59'19"N., long. 97°19'05"W.)
Fort Worth, Stage Coach Hills Airport, TX
(lat. 32°58'00"N., long. 97°14'01"W.)

That airspace extending upward from the surface to, but not including 3,000 feet MSL within a 4.5-mile radius of Fort Worth Alliance Airport excluding that airspace within a 0.5-mile radius of Stage Coach Hills Airport; excluding that airspace within the Dallas-Fort Worth, TX, Terminal Control Area. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ASW TX CZ Houston David Wayne Hooks Memorial Airport, TX Houston, David Wayne Hooks Memorial Airport, TX
(lat. 30°03'43"N., long. 95°33'10"W.)

That airspace extending upward from the surface to, but not including 2,000 feet MSL within a 4.2-mile radius of the David Wayne Hooks Memorial Airport. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ El Centro NAF, CA
El Centro NAF, CA
(lat. 32°49'45" N., long. 115°40'18" W.)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of El Centro NAF, excluding that airspace east of long. 115°37'00" W., when the Imperial County Airport Control Zone is effective.

* * * * *

AWP CA CZ El Toro MCAS, CA
El Toro MCAS, CA
(lat. 33°40'34" N., long. 117°43'52" W.)
John Wayne Airport/Orange County
(lat. 33°40'32" N., long. 117°52'05" W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of El Toro MCAS, excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ San Diego-Gillespie Field, CA
San Diego-Gillespie Field, CA
(lat. 32°49'34" N., long. 116°58'21" W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.3-mile radius of San Diego-Gillespie Field, excluding that airspace within the San Diego, CA, Terminal Control Area and the Miramar NAS, CA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ San Diego Montgomery Field, CA
San Diego Montgomery Field, CA
(lat. 32°48'57" N., long. 117°08'25" W.)
San Diego International-Lindbergh Field, CA
(lat. 32°44'01" N., long. 117°11'15" W.)
Montgomery Field ILS Localizer
(lat. 32°48'57" N., long. 117°08'25" W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 3-mile radius of Montgomery Field, excluding that airspace within the San Diego, CA, Terminal Control Area; and that airspace

extending upward from the surface within 1.8 miles each side of the Montgomery Field ILS localizer east course, extending from the 3-mile radius to the outer marker, excluding that airspace within the San Diego, CA, Terminal Control Area and the San Diego-Gillespie, CA, Control Zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter to continuously published in the Airport/Facility Directory.

* * * * *

AWP CA CZ Van Nuys, CA
Van Nuys Airport, CA
(lat. 34°12'35"N., long. 118°29'24"W.)
Burbank-Glendale-Pasadena Airport, CA
(lat. 34°12'02"N., long. 118°21'30"W.)
Van Nuys VOR/DME (lat. 34°13'24"N., long. 118°29'30"W.)

That airspace extending upward from the surface to, but not including, 3,000 feet MSL within a 4.3-mile radius of Van Nuys Airport, excluding that airspace with the Burbank-Glendale-Pasadena Airport, CA, Airport Radar Service Area and excluding the portion between the Van Nuys VOR 219° radial clockwise to the Van Nuys VOR 314° radial extending beyond the Burbank-Glendale-Pasadena Airport 10-mile radius; and that airspace extending upward from the surface within 2.2 miles each side of the Van Nuys VOR/DME 350° radial, extending from the 4.3-mile radius to 8.3 miles north of the Van Nuys VOR. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

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Section 71.181 Designation of Transition Areas

* * * * *

AAL AK TA Barrow, AK
Barrow/Wiley Post-Will Rogers Memorial Airport, AK
(lat. 71°17'08"N., long. 156°45'58"W.)
Point Barrow LRRS Airport
(lat. 71°20'20"N., long. 156°37'58"W.)
Barrow VORTAC
(lat. 71°16'24"N., long. 156°47'18"W.)
Barrow Localizer
(lat. 71°17'08"N., long. 156°44'07"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Barrow/Wiley Post-Will Rogers Memorial Airport and within 4 miles each side of the Barrow Localizer back course extending from the 6.6-mile radius to 14.6 miles east of the airport and within a 6.5-mile radius of the Point Barrow LRRS Airport; and that airspace extending upward from 1,200 feet above the surface within a 77-mile radius of the airport extending clockwise from the Barrow VORTAC 101° radial to the 240° radial; excluding that airspace within the Barrow, AK, Control Zone.

* * * * *

AAL AK TA King Salmon, AK
King Salmon Airport, AK
(lat. 58°40'36"N., long. 156°38'58"W.)
King Salmon VORTAC
(lat. 58°43'29"N., long. 156°45'08"W.)
Saldo LOM
(lat. 58°44'15"N., long. 156°46'40"W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of the King Salmon Airport and within 4 miles northeast and 8 miles southwest of the 312° bearing from the Saldo LOM extending from the LOM to 21 miles northwest of the LOM and within 14 miles of the King Salmon VORTAC 259° radial clockwise to the 004° radial and that airspace within 3.3 miles either side of the 132° radial of the King Salmon VORTAC extending from the 6.7-mile radius of the King Salmon Airport to 10 miles southeast of the King Salmon Airport; and that airspace extending upward from 1,200 feet above the surface within a 39-mile radius of the King Salmon Airport; excluding that airspace within the King Salmon Airport, AK, Control Zone during the specific dates and times it is effective.

* * * * *

AAL AK TA Sitka, AK
Sitka Airport, AK
(lat. 57°02'50"N., long. 135°21'41"W.)
Biorka Island VORTAC
(lat. 56°51'34"N., long. 135°33'04"W.)
Sitka Localizer
(lat. 57°02'53"N., long. 135°21'54"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sitka Airport and within 4 miles each side of the 029° and 209° radials of the Biorka Island VORTAC extending from the 6.6-mile radius to 1 mile south of the VORTAC and within a 14-mile radius of the Biorka Island VORTAC extending clockwise from the 127° radial to the 323° radial and within 4 miles west and 8 miles east of the Biorka Island VORTAC 209° radial extending from the 14-mile radius to 16 miles southwest of the VORTAC and within 4 miles each side of the Sitka Localizer back course extending from the Sitka Localizer to 13.5 miles northwest of the airport; and that airspace extending upward from 1,200 feet above the surface within 40-mile radius of the Biorka Island VORTAC; and that airspace extending upward from 5,500 feet MSL within an 85-mile radius of the VORTAC; excluding that airspace within Control Area 1487; more than 12 miles from the shoreline; within the Juneau, AK, and the Ketchikan, AK, Transition Areas and within the Sitka, AK, Control Zone.

* * * * *

AEA VA TA Chantilly, VA
Washington Dulles International Airport, Washington, DC
(lat. 38°56'39"N., long. 77°27'25"W.)
Washington Dulles International Airport Runway 19R Localizer Course OM
(lat. 39°01'51"N., long. 77°27'30"W.)
Washington Dulles International Airport Runway 19L Localizer Course OM
(lat. 39°01'15"N., long. 77°25'55"W.)
Washington Dulles International Airport Runway 1R Localizer Course OM
(lat. 38°50'50"N., long. 77°26'16"W.)
Leesburg Municipal/Godfrey Field
(lat. 39°04'40"N., long. 77°33'27"W.)
Manassas Municipal/Harry P. Davis Airport
(lat. 38°43'17"N., long. 77°30'56"W.)

That airspace extending upward from 700 feet above the surface within a 7.7-mile radius of Washington Dulles International Airport and within 3.3 miles each side of the Washington Dulles International Airport Runway 19R localizer course extending from the OM to 8.6 miles north of the OM and within 3.3 miles each side of the Washington Dulles International Airport Runway 19L localizer course extending from the OM to 8.6 miles north of the OM and within 5.3 miles west and 3.5 miles east of the Washington Dulles International Airport Runway 1R localizer course extending from the OM to 9.9 miles south of the OM and within a 6.4-mile radius of Leesburg Municipal/Godfrey Field and within 3.1 miles either side of the Leesburg Municipal/Godfrey Field Runway 17 Localizer Course extending from the 6.4-mile radius to 10.5 miles north of the airport and within a 7.6-mile radius of Manassas Municipal/Harry P. Davis Airport and within 2.9 miles each side of a 326° bearing from a point at lat. 38°43'36"N., long. 77°31'26"W., extending from said point to 9.3 miles northwest.

* * * * *

AGL MI TA Three Rivers, MI
Three Rivers Municipal Dr Haines Airport, MI
(lat. 41°57'35"N., long. 85°35'36"W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Three Rivers Municipal Dr Haines Airport, excluding that airspace within the Sturgis, Kirsch Municipal Airport, MI, Transition Area.

* * * * *

AGL ND TA Williston, ND
Williston, Sloulin Field International Airport, ND
(lat. 48°10'41"N., long. 103°38'33"W.)
Williston VORTAC
(lat. 48°15'12"N., long. 103°45'02"W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Sloulin Field International Airport and within 4 miles each side of the Williston VORTAC 317° radial, extending from the 6.6-mile radius to 12.7 miles northwest of the airport and within 4 miles each side of the 124° bearing from the airport extending from the 6.6-mile area to 13.4 miles southeast of the airport, and within 3.8 miles each side of the Williston VORTAC 135° radial extending from the 6.6-mile radius to 12.3 miles southeast of the airport, and that airspace extending upward from 1,200 feet above the surface within a 21.8-mile radius of the Williston VORTAC extending from the west edge of V–439 clockwise to the north edge of V–430, and within 39.2 miles of the Williston VORTAC extending from the south edge of V–430 clockwise to the east edge of V–439.

* * * * *

ANE ME TA Kennebunkport, ME
Kennebunkport, Walkers Point Heliport, ME
(lat. 43°20'43"N., long. 70°27'32"W.)
Kennebunk VORTAC
(lat. 43°25'33"N., long. 70°36'49"W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Walkers Point Heliport and within 4.2 miles each side of the Kennebunk VORTAC 118° radial extending from the 6-mile radius

to 13.8 miles southeast of the Kennebunk VORTAC.

* * * * *

ASO GA TA Thomasville, GA
Thomasville Municipal Airport
(lat. 30°54'05"N., long. 83°52'53"W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Thomasville Municipal Airport; excluding that airspace within the Moultrie, GA Transition Area.

* * * * *

ASW LA TA Venice, LA
Venice, Garden Island Bay Seaplane Base, LA
(lat. 29°05'46"N., long. 89°11'53"W.)
Venice RBN
(lat. 29°07'07"N., long. 89°12'20"W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Garden Islands Bay Seaplane Base, within a 6.1-mile radius of lat. 29°15'32"N., long. 89°21'10"W., and within 2 miles each side of the 344° bearing from the Venice RBN extending from the 6-mile radius to 8.4 miles northwest of the seaplane base.

* * * * *

ASW TX TA Breckenridge, TX
Breckenridge, Stephens County Airport, TX
(lat. 32°43'06"N., long. 98°53'30"W.)
Breckenridge NDB
(lat. 32°44'50"N., long. 98°53'28"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Stephens County Airport and within 1.9 miles each side of the 359° true bearing from the Breckenridge NDB extending from the 6.4-mile radius to 8.8 miles north of the airport.

* * * * *

ASW TX TA Monahans, TX
Monahans, Roy Hurd Memorial Airport, TX
(lat. 31°34'56"N., long. 102°54'33"W.)
Wink VORTAC
(lat. 31°52'29"N., Long. 103°14'37"W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Roy Hurd Memorial Airport and within 1.6 miles each side of the 136° radial of the Wink VORTAC extending from the 6.4-mile radius to 11 miles northwest of the airport.

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Section 71.501 Designation of Airport Radar Service Areas

* * * * *

ANM WA ARS Whidbey Island NAS, WA
Whidbey Island NAS, Ault Field, WA
(lat. 48°21'07"W., long. 122°39'20"W.)

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of Whidbey Island NAS; and that airspace extending upward from 1,300 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 050° bearing from the airport clockwise to the 345° bearing from the airport; and that airspace extending upward from 2,000 feet MSL to and including 4,000 feet MSL within a 10-mile radius of the airport from the 345° bearing from the airport clockwise to the 050° bearing from the airport. This Airport Radar Service Area is effective during the specific days and hours of operation of the Whidbey Island NAS air traffic control facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

AWP CA ARS El Toro MCAS, CA
El Toro MCAS, CA
(lat. 33°40'34"N., long. 117°43'52"W.)
John Wayne Airport/Orange County
(lat. 33°40'32"N., long. 117°52'05"W.)

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the El Toro MCAS excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the EL Toro MCAS from a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of EL Toro MCAS intercepts the 10-mile arc of John Wayne Airport/Orange County clockwise to the 005° bearing from the EL Toro MCAS, and that airspace from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the EL Toro MCAS between the 104° bearing from the El Toro MCAS clockwise to a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of the John Wayne Airport/Orange County. This airport radar service area is effective during the specific days and hours of operation of the EL Toro Tower was established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

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The following amendment is to part 71 in effect as of September 16, 1993:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

3. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

4. Section 71.71 is amended by revising paragraph (c) to read as follows:

§ 71.71 Class E airspace.

* * * * *

(c) The airspace areas listed as domestic airspace areas in subpart E of FAA Order 7400.9 (incorporated by reference, see § 71.1) which extend upward from 700 feet or more above the surface of the earth when designated in conjunction with an airport for which an approved instrument approach procedure has been prescribed, or from 1,200 feet or more above the surface of the earth for the purpose of transitioning to or from the terminal or en route environment. When such areas are designated in conjunction with airways or routes, the extent of such designation has the lateral extent identical to that of a Federal airway and extends upward from 1,200 feet or higher. Unless otherwise specified, the airspace areas in the paragraph extend upward from 1,200 feet or higher above the surface to, but not including, 14,500 feet MSL.

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Issued in Washington, DC on March 12, 1993.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

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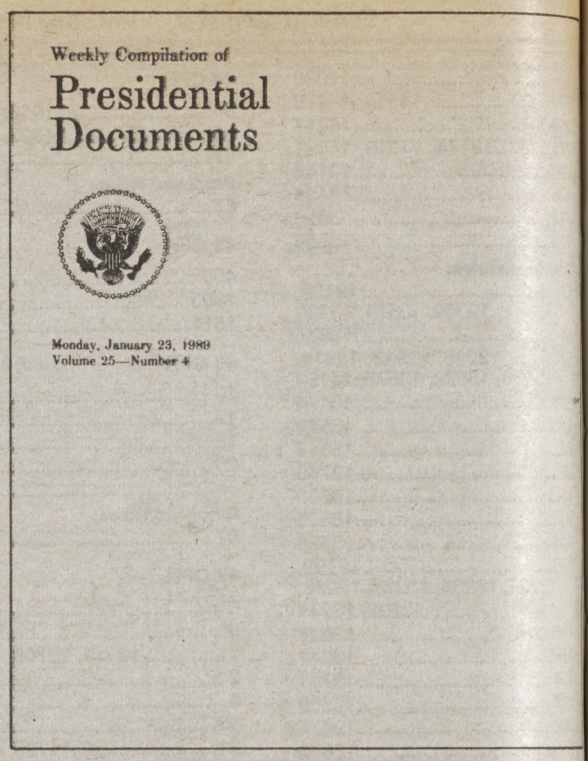

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