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Briefings on How To Use the Federal Register
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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

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2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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Contents

Federal Register

Vol. 58, No. 68

Monday, April 12, 1993

Agency for Health Care Policy and Research
NOTICES
Meetings; advisory committees:
April, 19126

Alcohol, Tobacco and Firearms Bureau
RULES
Alcohol, tobacco, and other excise taxes:
Bonded wine premises operations; change in frequency of filing reports, 19062
Distribution and use of tax-free alcohol:
Special (occupational) tax exemption for certain educational institutions, 19060

Antitrust Division
NOTICES
National cooperative research notifications:
Portland Cement Association, 19141

Army Department
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Device for surface heated water intake trash rack, 19092

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
County-based medical examiners jurisdiction office information system; establishment, 19126

Coast Guard
PROPOSED RULES
Ports and waterways safety:
Stratford, CT; safety zone, 19074

Commerce Department
See Export Administration Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Mercantile Exchange, Inc.—
Standard & Poor's 500 Stock Price Index futures and options contracts, 19090
Meetings; Sunshine Act, 19150

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 19150

Defense Department
See Army Department
NOTICES
Agency information collection activities under OMB review, 19090
Meetings:
Electron Devices Advisory Group, 19090
Wage Committee, 19091

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air programs; fuel and fuel additives:
Gasoline and alcohol blends; volatility regulations
Correction, 19152
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 19066
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
Heavy-duty engines and vehicles, including heavy light-duty trucks; nonconformance penalties, 19087
Air programs:
Protection of stratospheric ozone, 19080
Air quality implementation plans; approval and promulgation; various States:
Ohio, 19075
NOTICES
Toxic and hazardous substances control:
Premanufacture notices receipts, 19093, 19094
Radon levels in new buildings; model construction standards and techniques, 19097

Executive Office of the President
See Presidential Documents

Export Administration Bureau
NOTICES
Meetings:
Sensors Technical Advisory Committee, 19089

Federal Aviation Administration
RULES
Airworthiness directives:
de Havilland, Inc., 19049
Transition areas
Correction, 19152
PROPOSED RULES
Airworthiness directives:
Airbus Industrie, 19068
Cessna, 19069
SAAB-Scania, 19071
Short Brothers, plc, 19073

Federal Communications Commission
NOTICES
Applications, hearings, determinations, etc.:
EZ Communications, Inc., et al., 19106

Federal Energy Regulatory Commission
NOTICES
Environmental compliance training courses, 19092
Applications, hearings, determinations, etc.:
Tennessee Gas Pipeline Co.; correction, 19152
Transcontinental Gas Pipe Line Corp., 19092
Williston Basin Interstate Pipeline Co., 19092

Federal Maritime Commission
NOTICES
Agreements filed, etc., 19106

Casualty and nonperformance certificates:
Costa Cruise Linew N.V. et al., 19107

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Bank of New York Co., Inc., et al., 19107
Fern R. Shierson & Douglas J. Shierson, et al., 19108
Internationale Nederlanden Group N.V., 19107

Federal Trade Commission
NOTICES
Prohibited trade practices:
Audio-Logics, 19108
Audio RX Hearing Aids, 19111
Bay Colony Audiology Center et al., 19113
Brooklyn Audiology Assocs., P.C., et al., 19115
Brown-Potter Hearing Aid Center, 19118
Center for Improved Communications et al., 19120
Hearing Care Associates-Arcadia et al., 19122

Food and Drug Administration
NOTICES
Rivers, Jacob H.; felony conviction; debarment order, 19128
Vegesna, Raju; felony conviction; debarment order, 19129

General Services Administration
NOTICES
Travel regulations:
Higher actual subsistence expenses—
Augusta (Richmond County), GA, and Oshkosh (Winnebago County), WI, 19125

Health and Human Services Department
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
See Public Health Service
NOTICES
Social security benefits:
Cost of living increase, SSI monthly benefit amounts increase, average of total wages, contribution and benefit base, etc.; correction, 19152

Health Resources and Services Administration
See Public Health Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Community and migrant health center activities, 19130
Professional nurse traineeships, 19134

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Housing assistance payments (Section 8)—
Contract rent annual adjustment factors; retroactive payments; claims procedures, 19137
Mortgage and loan insurance programs:
Exception to new 6-year limitation on eligibility for distributive shares, 19139

Interior Department
See National Park Service

Internal Revenue Service
RULES
Income taxes:
Leased passenger automobiles and other listed property; inclusions in income, 19060

International Trade Administration
NOTICES
Meetings:
Automotive Parts Advisory Committee, 19089

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Consolidated Rail Corp., 19140

Justice Department
See Antitrust Division

National Archives and Records Administration
NOTICES
Agency records schedules; availability, 19141

National Credit Union Administration
NOTICES
Meetings; Sunshine Act, 19150

National Highway Traffic Safety Administration
NOTICES
Motor vehicle safety standards:
Nonconforming vehicles—
Importation eligibility; determinations, 19147

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 19135
Meetings:
National Institute of Diabetes and Digestive and Kidney Diseases, 19136, 19137
National Institute on Deafness and Other Communication Disorders, 19136

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 19087
Gulf of Mexico reef fish
Correction, 19152
NOTICES
Permits:
Endangered and threatened species, 19089

National Park Service
NOTICES
Meetings:
Civil War Sites Advisory Committee, 19140

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Portland General Electric Co., 19142
Applications, hearings, determinations, etc.:
Northeast Nuclear Energy Co., 19142
Omaha Public Power District, 19144

Personnel Management Office
NOTICES
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 19144
Privacy Act:
Computer matching programs, 19145
Systems of records, 19154

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Postcards, maximum thickness, 19075

Presidential Documents
ADMINISTRATIVE ORDERS
Narcotics major producing and transit countries; certifications (Presidential Determination No. 93–18 of March 31, 1993), 19033

Public Health Service
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Health Resources and Services Administration
Primary Health Care Bureau, 19137

Research and Special Programs Administration
NOTICES
Applications, hearings, determinations, etc.:
New York, NY, 19148

Securities and Exchange Commission
RULES
Investment companies:
Mutual fund performance and portfolio managers; disclosure, 19050
NOTICES
Meetings; Sunshine Act, 19150
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 19148

State Department
NOTICES
Agency information collection activities under OMB review, 19146
Meetings:
Fine Arts Committee, 19146

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 19151

Transportation Department
See Coast Guard
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Research and Special Programs Administration
NOTICES
Aviation proceedings:
Certificates of public convenience and necessity and foreign air carrier permits; weekly applications, 19147

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 19149

United States Information Agency
NOTICES
Meetings:
Public Diplomacy, U.S. Advisory Committee, 19149

Separate Parts In This Issue

Part II
Office of Personnel Management, 19153

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

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CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Determinations:

No. 92–18 of February 28, 1992 (See No. 93–18 of March 31, 1993).....19033

No. 93–18 of March 31, 1993.....19033

14 CFR

39.....19049

Proposed Rules:

39 (4 documents).....19068, 19069, 19071, 19073

71.....19152

17 CFR

239.....19050

270.....19050

274.....19050

26 CFR

1.....19060

27 CFR

22.....19060

24.....19062

33 CFR

Proposed Rules:

165.....19074

39 CFR

Proposed Rules:

111.....19075

40 CFR

52.....19066

80.....19152

Proposed Rules:

52.....19075

82.....19080

86.....19087

50 CFR

Proposed Rules:

641.....19152

675.....19087

Federal Register
Vol. 58, No. 68
Monday, April 12, 1993

Presidential Documents

Title 3—

The President

Presidential Determination No. 93–18 of March 31, 1993

Certification for Major Narcotics Producing and Transit Countries

Memorandum for the Secretary of State

By virtue of the authority vested in me by section 490(b)(1)(B) of the Foreign Assistance Act of 1961, as amended ("the Act"), I hereby determine and certify that the following major narcotics producing and/or major narcotics transit countries/dependent territories have cooperated fully with the United States, or taken adequate steps on their own, to achieve full compliance with the goals and objectives of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances:

The Bahamas, Belize, Bolivia, Brazil, China, Colombia, Ecuador, Guatemala, Hong Kong, India, Jamaica, Laos, Malaysia, Mexico, Morocco, Nigeria, Pakistan, Panama, Paraguay, Peru, Thailand, and Venezuela.

By virtue of the authority vested in me by section 490(b)(1)(B) of the Act, I hereby determine that it is in the vital national interests of the United States to certify the following countries:

Afghanistan and Lebanon.

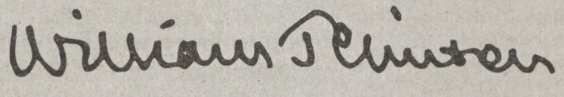
Information on these countries as required under section 490(b)(3) of the Act is enclosed.

I have determined that the following major producing and/or major transit countries do not meet the standards set forth in section 490(b)(1)(A):

Burma, Iran, and Syria.

In making these determinations, I have considered the factors set forth in section 490 of the Act, based on the information contained in the International Narcotics Control Strategy Report of 1993. Because the performance of these countries varies, I have attached an explanatory statement in each case.

You are hereby authorized and directed to report this determination to the Congress immediately and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, March 31, 1993.

STATEMENTS OF EXPLANATION

The Bahamas

In 1992, the Government of the Commonwealth of The Bahamas (GCOB) made further progress toward achieving the goals of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (the "UN Convention") and its bilateral narcotics control agreement with the USG. The GCOB has controls in place to discourage cash money laundering, but newer, more sophisticated money laundering techniques may require additional controls in order to meet fully the goals and objectives of the UN Convention. The GCOB continued its close cooperation with the USG to stop drugs from transiting the 700 islands of the archipelago. Drug enforcement initiatives, through both unilateral and combined programs, have reduced the overall quantities of drugs brought through the Bahamas over the past ten years. The new Ingraham administration, which came into office in August 1992, voiced its early commitment to maintain and enhance the high degree of cooperation in counternarcotics.

The Bahamas, which was the first country to ratify the 1988 UN Convention, has progressively instituted laws and programs to meet its objectives. In past years, the GCOB has created or strengthened laws or agreements relating to sentencing of traffickers, drug asset forfeiture, and mutual legal assistance. In 1992, the GCOB implemented comprehensive regulations to control the import and export of drug precursor and essential chemicals.

In October 1992, USG and GCOB representatives held talks on money laundering. The delegation of U.S. officials agreed with the GCOB conclusion that cash money laundering through banks in The Bahamas had diminished sharply. The majority of banks seemed to be effectively administering a know-your-customer policy which helps deter cash money laundering by non-account holders and/or transients. However, the USG also believes that The Bahamas is vulnerable to exploitation by drug money managers employing more sophisticated techniques involving a variety of monetary instruments passing through layers of shell corporations, which are a major feature of Bahamian banking and commerce. There are indications that money laundering continues via these new techniques.

Belize

The Belizean Government (GOB) has cooperated closely with the U.S. and other countries to combat narcotics trafficking. Cooperation has included interdiction, aerial eradication, sharing of intelligence, training, provision of materiel, and the arrest and return to the U.S. of non-Belizean fugitives from U.S. justice. Cocaine seizures and other drug-related crimes increased dramatically in 1992. Belize, with U.S. support, has successfully reduced marijuana cultivation to negligible levels. There is no indication of transit through Belize of precursor chemicals, or of any significant money laundering in Belize.

In December 1992, the U.S. and Belize signed a comprehensive maritime agreement which should enhance both nations' abilities to interdict illegal narcotics. The GOB has not yet signed the 1988 UN Convention, but many of the provisions of the Convention have already been adopted in Belize's 1990 Misuse of Drugs Act. Belize criminalizes illegal drug cultivation, production and distribution, and has cooperated with the U.S. and Mexico on interdiction of cocaine transshipment—indicators that the country is already in conformity with the intent of the UN Convention. The USG is urging Belize to adhere to the UN Convention and expects it will do so in 1993.

Bolivia

The Government of Bolivia (GOB) continued to cooperate with the USG and its neighbors on counternarcotics objectives in 1992 and has taken adequate steps to further the goals set forth in the 1988 UN Convention.

A major combined police, air force and navy law enforcement operation in the Chapare, the main coca growing region, resulted in significant seizures, including 51 metric tons of coca leaf, over 25 metric tons of cocaine products, nearly 80 metric tons of chemicals, seizure of 10 aircraft, destruction of 427 processing laboratories and 19 airstrips, and arrest or detention of 496 persons suspected of participating in trafficking activities. Building on the success of previous actions, this long-term operation demonstrates the growing capacity of the GOB to implement and sustain successful law enforcement actions throughout the country.

The GOB eradicated 5,149 hectares of coca in 1992. Although short of the GOB 7,000-hectare target, the voluntary eradication program succeeded in duplicating the small net reduction of coca cultivation achieved in 1991. It should be noted that a portion of coca cultivation (traditional chewing and for coca tea) is legal under Bolivian law but that production far exceeds the needs of the domestic market.

GOB counternarcotics results would be improved by strengthened political will against illegal coca cultivation and more vigorous actions against corruption. The GOB needs to implement all provisions of its existing law, including forcible eradication of new coca in the Chapare. Improvements in the justice system would increase GOB ability to prosecute successfully traffickers and keep them in prison.

The GOB extradited one Bolivian drug trafficker to the United States in mid-1992. However, in December 1992, the Bolivian Supreme Court rejected a U.S. request for the extradition of another trafficker on the grounds that the existing extradition treaty did not include narcotics violations, and that the offenses for which the trafficker was charged occurred prior to Bolivia's accession to the 1988 UN Convention. (The UN Convention had been the basis for previous extradition requests.) The Court's decision spurred the GOB to seek a modern extradition treaty with the U.S. which would cover narcotics-related offenses. The GOB is currently reviewing the text of a draft treaty it negotiated with the U.S. in 1990.

Brazil

In 1992, the Government of Brazil (GOB) continued to cooperate with the USG in counternarcotics programs, though results of its efforts have been disappointing. A severe political crisis and chronic economic problems distracted the GOB from effectively addressing its rising drug trafficking and consumption problem.

The GOB has not yet formulated a comprehensive national strategy, nor has it devoted sufficient resources to the problem. The anti-narcotics unit of the Federal Police is severely undermanned and underfunded. Legislation which would substantially improve counternarcotics enforcement continues to languish in congressional committee. Nevertheless, the GOB undertook two notable counternarcotics initiatives in 1992. The President signed a decree increasing the penalty for growing illegal drugs. Under this decree, landowners may be required to forfeit their entire plot of land, not just the small parcel under illicit cultivation. Secondly, the Government imposed regulations for reporting deposits over $10,000, following a USG-funded money laundering control seminar attended by central bank officials. New President Franco has declared 1993 will be a year of national commitment against drug trafficking. These measures demonstrate progress toward the goals and objectives of the 1988 UN Convention.

China

The People's Republic of China (PRC) has become a significant transit country for heroin produced in the neighboring Golden Triangle region, principally Burma. It also has a growing opium cultivation problem and produces illicit methamphetamine, some of which is exported. The Chinese Government is actively addressing narcotics abuse and has launched a strong internal campaign against illegal drug use, including law enforcement, public education and international cooperation components. The Government treats narcotics-related corruption seriously.

Expansion of PRC cooperation with the USG remains restricted by the still-unresolved case of smuggler Wang Zongxiao, who requested political asylum in the U.S. in 1990 after being sent by PRC authorities at USG request to testify in a narcotics prosecution. The Drug Enforcement Administration has been able to continue a modest liaison relationship with PRC authorities, however, and the Chinese have participated in USG-funded training programs. The PRC itself pursues an active and aggressive counternarcotics effort, which has resulted in numerous arrests and convictions, many resulting in death sentences and substantial seizures.

China's broad-based counternarcotics program, while not in all respects sophisticated by world standards, shows that the PRC has met or is actively seeking to meet the goals and objectives of the 1988 UN Convention.

Colombia

Despite intense pressure by powerful drug trafficking organizations and some setbacks, Colombia continues to be both cooperative and proactive in a broad range of counternarcotics activities. Colombia signed the 1988 UN Convention in 1988. Despite the fact that the Second Senatorial Commission did not ratify it, the Government of Colombia (GOC) has largely met the goals of the Convention and the Gaviria administration still strongly supports its ratification. Pablo Escobar's July escape from prison was a major embarrassment to the GOC, with costly political fallout both domestically and internationally. The GOC responded quickly, by initiating an unprecedented massive manhunt, resulting in thousands of raids. Although Escobar remains at large, many of his key associates have been killed, captured, or have returned to prison voluntarily.

The GOC made a tough political decision in early 1992 to eradicate opium poppy—which only recently appeared in Colombia—with aerial application of herbicide. This decision, coupled with the Colombian National Police's (CNP) aggressive crop spraying campaign, has started to stabilize the opium crop. However, continuing pressure is needed to prevent the spread of opium poppy cultivation.

Led by the CNP's directorate of anti-narcotics (DAN), security services in 1992 seized or destroyed over 33 metric tons of cocaine hydrochloride and base, over 200 cocaine labs, over 6,000 55-gallon drums of ether, acetone and MEK, 110 airstrips, over 30 aircraft, and arrested over 1,700 persons.

The GOC activated its new Prosecutor General's office July 1, setting a standard in Latin America for criminal justice reform and prosecuting narcotics cases. Colombian law enforcement and military components participated fully in both bilateral and multilateral air interdiction and money laundering/asset seizure operations, many targeting the Cali Cartel. The CNP and Venezuelan security forces conducted a successful joint cross-border interdiction operation. Colombia is also conducting its first national-level drug abuse survey. Strong political will exists within the GOC, but the activities of traffickers through bribery, political influence, intimidation, violence and collusion with insurgents make progress difficult.

Ecuador

The Government of Ecuador (GOE) continues to cooperate with the USG to reduce drug trafficking. The GOE has enacted domestic legislation to

implement the provisions of the 1988 United Nations Convention and OAS Model Regulations. The GOE is taking steps to meet the goals and objectives of the 1988 UN Convention. In 1991, Ecuador and the USG signed a chemicals control agreement. In 1992, Ecuador signed an agreement with the USG on money laundering, which entered into force in 1993. Also in 1992, the USG and GOE began work on an asset sharing agreement. The GOE must marshal the various Ecuadorian agencies' efforts to form a viable national counternarcotics strategy.

The GOE's arrest of the leader and most members of the Jorge Reyes Torres Organization (JRTO/the largest narcotics trafficking organization in Ecuador) demonstrated resolve against drug trafficking, although we are waiting for vigorous prosecution of the defendants. The GOE also brought charges against a number of officials in an Ecuadorian military-owned bank for money laundering. In addition, the GOE sentenced a judge to five years in prison for illegally releasing Reyes Torres from jail in 1988. Nevertheless, corruption remains a serious problem.

For the first time, the Ecuadorian military provided air support to the police for counternarcotics operations. In another first, the GOE launched combined police/military operations against suspected drug traffickers in a remote area of the Ecuadorian/Colombian border. Ecuador also participated with the USG and neighbors in multi-national military efforts to curb drug trafficking. Ecuador has continued its participation in a regional air interdiction program.

The GOE eradicated coca in the mid-1980s and continues to conduct reconnaissance to locate and destroy any new cultivation, resources permitting. GOE forces found and destroyed several hectares of opium poppy near the Colombian border in November 1992.

Guatemala

During 1992, the administration of President Serrano cooperated with the U.S. to combat narcotics trafficking. Guatemalan Treasury Police participated with the Drug Enforcement Administration and the State Department Bureau of International Narcotics Matters (INM) in Operation CADENCE, an enhanced cocaine interdiction program combining intelligence sharing, joint counternarcotics missions, and use of USG air assets in Guatemalan territory.

Operation CADENCE and Guatemalan law enforcement authorities' own independent actions resulted in the seizure of 9.5 tons of cocaine in 1992. With USG support, the Guatemalans opened a Joint Intelligence Collection Center and included on the staff an official dedicated to precursor chemical control investigations. The Treasury Police has also undertaken to increase its staff and deploy more heavily throughout the country.

Guatemala's USG-supported aerial eradication program and Guatemala Treasury Police manual eradication missions sharply reduced the cultivation of opium poppy in 1992. The area under cultivation had reached a peak in 1990 at roughly 1,930 hectares, but declined in 1991 to 1,721 hectares, and in 1992 to 1,200 hectares.

Guatemala has signed and ratified the 1988 UN Convention; in 1992, the Guatemalan legislature passed a tough, comprehensive counternarcotics law which, when implemented in 1993, will meet the standards of the 1988 UN Convention. The government's cooperation on extradition and law enforcement with the U.S. as well as its chemical control efforts, drug awareness programs, crop eradication and drug interdiction indicate that the country is already in conformity with the Convention's goals and objectives.

The Serrano administration brought extradition proceedings against former mayor (of Zacapa) Arnoldo Vargas to a successful conclusion in 1992. Vargas and two of his associates now await trial on trafficking charges in the United States.

Hong Kong

Hong Kong is an important center for brokering and transshipping heroin from the Golden Triangle to the United States and other destinations. Drug traffickers also use it to launder their narcotics earnings. Hong Kong's counternarcotics effort represents substantial compliance with the goals and objectives of the 1988 UN Convention, although it is not party to the Convention.

Bilateral cooperation between USG agencies and their HKG counterparts is excellent. About $25 million in drug-related assets have been confiscated both in Hong Kong and in the U.S. under a U.S.-Hong Kong agreement concerning confiscation and forfeiture of proceeds and instrumentalities of drug trafficking since it came into force in January 1991. The Hong Kong courts ruled in January that U.S. civil court forfeiture orders will be given effect by local courts under the terms of the bilateral agreement. This will give the U.S. the ability to request the freezing of drug assets in Hong Kong by means of either a U.S. civil or criminal forfeiture request. The HKG is positively considering a USG request for the sharing of seized assets. In one setback, a Hong Kong court ruling voided key sections of the financial disclosure laws; the Hong Kong Government is appealing to the Privy Council.

USG-HKG cooperation in extradition matters remains excellent. In 1992, 11 fugitives were extradited from Hong Kong to the U.S. on drug charges. Cooperation between the U.S. Drug Enforcement Administration and Customs and their HKG counterparts continues to be fruitful. Hong Kong is an active participant in the Financial Action Task Force.

India

India's main drug control problems are the transit of illegal drugs across its borders from neighboring producing countries, diversion from its licit opium industry to illicit channels, illegal cultivation and illicit export of chemicals for processing heroin. Despite good cooperation with the United States on individual cases of trafficking and increasing efforts to curtail diversion from licit cultivation, the Government of India (GOI) still needs to raise the priority of anti-drug programs and take stronger measures to control narcotics to the maximum extent possible.

The GOI again in 1992 raised the minimum amount of opium which licit growers must sell the GOI to obtain a new license, tightened terms of the crop-damage clause and paid incentives to growers who sell the GOI more opium than the average yield for the previous growing year. It has also reduced the number of farmers licensed to grow opium and brought the licit opiate stockpile down to a level consistent with market demand. Nevertheless, corruption at various levels and limited resources continue to obstruct effective GOI enforcement to thwart diversion of the licit crop into the hands of traffickers. Significant quantities of opium are still diverted from licit production, although most of what is diverted is probably consumed within the country. GOI-reported seizures of illegal opium fell to 1,585 kg in 1992 versus 2,145 kg in 1991.

On the other hand, GOI-reported heroin seizures rose to 1,034 kg in 1992 versus 622 kg in 1991. GOI regulations controlling the sale and possession of acetic anhydride (AA), used to make heroin, on the Indo-Pakistani and Indo-Burmese border have apparently helped to reduce AA smuggling to neighboring countries. The GOI states that nationwide AA controls are impossible because of its wide licit use, but the government nevertheless has set up an interagency committee to study what further domestic restrictions on AA may be possible.

India is becoming a major repository of Southwest Asian drug money, attracted by weak controls on its financial system, its gold market and its underground banking system. India is also reportedly attracting drug

money from Colombia and other parts of the narcotics world. Several measures of control have been adopted in India, but enforcement is weak.

Existing Indian narcotics-related laws are adequate but rules on asset seizure, conspiracy and money laundering need to be more consistently applied to further advance the goals and objectives of the 1988 UN Convention.

Jamaica

In 1992, the Government of Jamaica (GOJ) took adequate steps toward achieving the goals of both its bilateral narcotics control agreement with the USG and the 1988 UN Convention. Jamaica's new Prime Minister, who entered office in March 1992, reaffirmed his government's commitment to a vigorous counternarcotics program.

The GOJ-USG cooperative interdiction program resulted in increased cocaine seizures during 1992. However, marijuana seizures were down, due at least in part to the vigorous GOJ eradication program to which the USG provided helicopter support. Based on preliminary crop estimates, in 1992 harvestable cultivation of cannabis was reduced to 389 hectares, down from 950 hectares in 1991 and 1,220 hectares in 1990. The Jamaicans hosted a workshop and a ministerial conference on money laundering under the auspices of the Caribbean Financial Action Task Force.

The GOJ is largely effective in controlling public corruption connected with drug trafficking. There have been no known instances of integrity violations in jointly conducted USG-GOJ narcotics investigations. Although no senior GOJ officials are known to be engaged in drug trafficking, an assistant superintendent of police was charged with accepting bribes and providing security for a major marijuana trafficker. A resident magistrate ruled that the GOJ had failed to substantiate the charges, and the assistant superintendent was reinstated to his former position.

The GOJ has not yet ratified the USG-GOJ Mutual Legal Assistance Treaty (MLAT) or the 1988 UN Convention. Draft legislation to ratify the MLAT and a second draft of assets seizure/money laundering legislation were completed in 1992 and are under review by the GOJ. The new U.S.-Jamaican extradition treaty, which entered into force in 1991, provides for the extradition of drug offenders.

The GOJ takes pride in its integrated demand reduction program, which encourages society as a whole to attack drug abuse. The GOJ has not yet developed an information system to monitor the success of the program.

Laos

Laotian counternarcotics efforts expanded in 1992. Estimated opium production declined 13 percent in 1992 from 1991, bringing the total crop reduction since initiation of USG and United Nations Drug Control Program (UNDCP) funded counternarcotics programs in 1989 to 39 percent. Laos is the only major producer in which opium production has decreased for three consecutive years.

Although Lao law enforcement efforts against the drug trade remain largely ineffective, there were several potentially positive developments in the area during the year. The Government of Laos (GOL) has actively publicized narcotics-related arrests and seizures during the past year, in contrast to past practice. An increased number of both highland and lowland Lao have been arrested on charges involving opium, heroin and marijuana. In December, Laos arrested its first foreign heroin trafficker in a case also marked by cooperation with Thai police authorities. The Lao Customs Department has established a separate counter-smuggling unit in Vientiane with counternarcotics responsibilities. In August, the GOL Council of Ministers approved establishment of a counternarcotics police unit, and in September Laos and the USG signed a letter of agreement to provide support and training for this unit. Progress in actual formation of that unit has been

slow, but existing police counternarcotics efforts continue to improve. Laos' counternarcotics efforts remain weak, and its slowness to establish the new police unit and accept USG assistance are disappointing; but these aspects must be seen in the context of a poor country with a poorly developed administrative system.

Laos is not a party to the 1988 UN Convention. It has made only limited formal progress toward meeting its goals and objectives, but is translating materials on the legal requirements of the Convention into Lao for legislative attention, and officials have stated their intent to meet the Convention's standards.

Narcotics corruption among civilian and military personnel continues to be a major problem in Laos. There is no evidence that the Lao Government itself encourages or facilitates narcotics activity. Although senior Lao officials have repeatedly insisted that anyone involved in the narcotics trade will be arrested and prosecuted, there is little evidence of aggressive action in this regard.

Malaysia

Malaysia is an important consumer and transit point for Golden Triangle heroin, some of which is also processed in the country from imported opium or derivatives. The Malaysian Government recognizes the seriousness of the narcotics threat both domestically and internationally, and has strong laws, active law enforcement, public education, and treatment programs. It cooperates well with the United States. During 1992, Malaysia arrested at USG request a major Southeast Asian heroin trafficker and pursued extradition proceedings against him. Although the extradition request was denied, the trafficker was expelled from Malaysia and is now under arrest in the U.S.

While low-level corruption facilitates persistent drug trafficking and abuse, Malaysia pursues aggressive law enforcement efforts under one of the most severe drug laws in the world. Malaysian narcotics policy is generally serious, well funded and well organized. Malaysia is actively moving to meet the goals and objectives of the 1988 UN Convention, which it has signed but not yet ratified.

Mexico

The United States Government and the Government of Mexico (GOM) maintained close, effective counternarcotics cooperation in 1992, despite GOM indignation over what it viewed as violations of Mexican sovereignty and international law in the *Alvarez Machain* case.

Mexico nevertheless continued its vigorous and comprehensive national campaign against production, trafficking and abuse of illegal drugs, meeting the goals and objectives of the 1988 UN Convention. The GOM still needs to enact money laundering legislation, which we expect to be submitted to the Mexican Congress in April 1993. The GOM seized nearly 40 MT of cocaine and 83 kilograms of heroin in 1992, and the USG estimates that Mexico effectively eradicated 6,860 hectares of opium poppy and 12,100 hectares of marijuana. President Salinas called on all of Mexico's governors to develop state programs to complement the national drug plan which addresses both the effects and the roots of the problem—a balanced approach of supply and demand reduction, alternative economic development, etc. In June 1992, the GOM established the National Center for the Planning for the Control of Drugs (CENDRO) as the focal point for strategic planning, threat analysis and operational coordination. The Attorney General continued to press for legal reforms to further combat trafficking and to protect civil rights.

Mexico is working with the U.S. to build a coordinated hemispheric response to the drug threat. President Salinas participated in the San Antonio Summit. The GOM urges its neighbors to take greater responsibility for combatting trafficking in their territories. In July 1992, Mexico announced

that it would complete the process of assuming the costs of counternarcotics programs previously supported by U.S. international narcotics control funds. Future USG support will concentrate on specialized training and technical support.

Despite successes, Mexico faces daunting obstacles. Illicit drug crop cultivation has spread to new and more remote areas. South American cocaine traffickers have taken evasive measures to avoid detection. Mexico's revitalized economy and unregulated money exchange houses make it an attractive venue for money laundering. Also, its extensive chemical industry makes control of precursor chemicals very difficult. Official corruption is a deep-rooted and persistent problem, but it is one which President Salinas is addressing as a high priority.

Morocco

Morocco is one of the world's largest producers of cannabis, much of which is exported as hashish resin or oil to Europe and other countries in North Africa. Increasing quantities of cocaine and, to a lesser extent, heroin are transiting from the Americas and Asia through Morocco en route to Europe. An estimated 15 to 40 percent of Morocco's cannabis crop is consumed domestically. Abuse of prescription drugs is a secondary concern, and authorities report rising use of cocaine and heroin in major cities.

During the latter months of 1992, Morocco began showing signs of new political will to address its drug trafficking and consumption problems. King Hassan II issued a directive in October ordering various ministries to increase their anti-drug efforts. In October, the Moroccan Government also publicly acknowledged the existence of drug-related official corruption and took action against many suspected of involvement in the drug trade. Although official corruption continues to be a serious problem, the government struck from electoral rolls the names of nearly 400 candidates suspected of narcotics-related corruption. Morocco ratified the 1988 UN Convention in November and began drafting modifications to its laws to bring them into conformity. These revisions are expected to be enacted early in 1993.

Following the King's directive, Morocco also initiated a two-phase counternarcotics campaign in the cannabis-producing Rif Mountain region. The first phase involved increased law enforcement activities, although it is not clear how effective these activities have been at reducing cannabis cultivation. For the second phase, King Hassan has requested over $700 million in financing from the European Community for crop substitution and economic development in the Rif region.

Nigeria

Nigerian drug trafficking organizations are responsible for bringing in much of the Asian heroin that enters the United States. These networks, sophisticated in their practices and ubiquitous in their geographical reach, recruit carriers from throughout Africa, as well as from Europe, Asia, and the United States. Nigerians also are increasingly involved in trafficking cocaine from Latin America into Europe and the United States.

The Federal Military Government (FMG) of Nigeria took some steps to improve its counternarcotics performance in 1992, although much remains to be done. In April 1992, the USG requested the extradition of four Nigerian citizens to face heroin trafficking charges in the United States; one of the four was extradited in October. As Nigeria's importance as a drug transit country has grown, there has been a corresponding growth in drug abuse within Nigeria. The FMG in 1992 made genuine efforts to attack the problem by expanding public awareness, developing anti-drug curricula for public schools, and opening two drug treatment centers.

The FMG does not, as a matter of policy, facilitate the production or trafficking of drugs or the laundering of drug money, but corruption continues to be an endemic problem severely limiting the effectiveness of Nigeria's counternarcotics efforts. Nigeria took some steps in 1992 to recognize its

corruption problems. The Attorney General's office amended Nigeria's drug decree to impose stiffer penalties on corrupt officials. Several drug law enforcement officers were arrested and charged with corruption, including an intelligence officer who received a 30-year prison sentence.

The National Drug Law Enforcement Agency (NDLEA), created in 1989, continued to expand its staffing and budget, but its effectiveness was hampered by corruption and weak leadership. After a period of strained relations that forestalled operations of the joint NDLEA-DEA task force, the joint task force resumed its activities late in 1992 and is discussing a reorganization for 1993.

In many respects, Nigeria's counternarcotics efforts advanced the goals and objectives of the 1988 UN Convention, but the FMG needs to do more in several areas including extraditing the remaining three Nigerian citizens under indictment in U.S. Federal court, targeting major drug organizations and kingpins, and preventing and punishing official corruption.

Pakistan

Pakistan remains a major producer and an important transit country for heroin destined for international markets. The Drug Enforcement Administration estimates that 20 percent of the heroin consumed in the U.S. originates in Southwest Asia where Pakistan is a primary producer.

The Government of Pakistan (GOP) continued anti-narcotics initiatives in 1992. Cooperation with USG agencies on investigations, enforcement and extraditions remained good; however, the GOP initiated only two prosecutions of major traffickers during the year; one was convicted but successfully appealed. The USG expects that Pakistan will do better on arrests and prosecutions when the Narcotics Ministry's Anti-Narcotics Task Forces (ANTF), established in 1992, become fully operational. The GOP states that it is committed to expanding and enforcing the opium poppy ban in the Northwest Frontier Province, but potential opium production decreased only slightly to 175 mt in 1992 as compared to 180 mt in 1991. While 12 heroin labs in the Northwest Frontier Province (NWFP) were reportedly closed, no prosecutions resulted and government action has apparently not deterred the opening of new heroin laboratories. Most of these laboratories are located in areas of the northwest bordering Afghanistan and have never been within the span of central Pakistani government control.

Draft legislation to bring Pakistani laws into compliance with the 1988 UN Convention still awaits passage by the Parliament. If the Parliament adopts recommendations on drug control written by a special committee for the country's next five-year plan, it will represent a commitment to enhancing GOP anti-drug efforts. Pakistan is increasingly of concern as a money laundering site.

Pakistan is taking adequate steps to meet the goals and objectives of the 1988 UN Convention, but the GOP must follow through—financially and politically—to implement more effective narcotics control initiatives if they are to contribute meaningfully to reducing the country's drug problems.

Panama

Panama remains a major narcotics money laundering and illicit drug-transshipment nation. Despite continued policy and budgetary support for counternarcotics measures by the Endara administration, Panama's drug trafficking problem remains severe and the Panamanian Government (GOP) needs to make a stronger, more effective effort against the drug trade.

Cocaine seizures in 1992 increased to 10 tons, exceeding the record 9.3 tons seized in 1991. Most of the large seizures (including a record 5.3 tons on July 15) occurred in the Colon Free Zone, highlighting the importance of that facility to traffickers. The GOP redrafted its national narcotics control legislation (Law 23 of 1986). Panamanian law already meets the goals and

objectives of the 1988 UN Convention: it criminalizes a broad range of narcotics trafficking and money laundering activities and provides for assets seizure. Still, Panama is a "venue of choice" to money launderers, and is one of the four major money laundering countries in this hemisphere. The GOP signed and ratified a Mutual Legal Assistance Treaty with the U.S. in 1991, but the document still awaits the U.S. Senate's ratification. Panama signed the 1988 UN Convention in 1991, but has not yet ratified it.

Execution of drug laws has been inconsistent, in part because Law 23 is more effective for seizure than for forfeiture of illegally obtained assets. Panamanian authorities continued in 1992 to freeze bank accounts of suspected money launderers; however, claiming he was bound by Law 23, the Attorney General released millions of dollars of previously frozen accounts allegedly traceable to drug cartel kingpins. These unwarranted actions prompted the Panamanian Solicitor General to suspend both the Attorney General and Drug Secretary, pending further investigation. The suspensions, upheld by the Supreme Court, revealed much GOP interagency suspicion and weakened Panama's overall counternarcotics effort.

Notwithstanding the need for Panama to prosecute money laundering cases more vigorously, Panama cooperated with the U.S. in 1992, inaugurating a Joint Intelligence Collection Center; opening a new Judicial Technical Police (PTJ) academy, and increasing PTJ staff by about 50 percent. Panamanian Customs cooperated with a U.S. Customs Service survey of Panamanian gateways, and Panamanian law enforcement agencies participated in a joint maritime exercise.

The U.S. and Panama have bilateral agreements on ship boarding, maritime operations and essential chemicals. The PTJ has cooperated fully in providing data on transportation of precursor chemicals transiting Panama for illicit purposes. The GOP extradited three Colombian nationals to the U.S. in accordance with the 1904 bilateral extradition treaty and the 1961 Single Convention, as amended by the 1972 Protocol.

Paraguay

During 1992, the Government of Paraguay's (GOP) efforts to improve its counternarcotics capabilities focused on strengthening enforcement agencies and broadening the legal framework for anti-drug activities. In these efforts, the GOP cooperated with the United States Government.

A notable GOP policy initiative was the inclusion in the new constitution of Article 71, which requires the government to suppress the production and trafficking of narcotics, to fight money laundering, and to establish programs in drug education, prevention, and rehabilitation. The GOP, through its Anti-Drug Secretariat (SENAD), mounted some 30 major operations to disrupt marijuana cultivation and trafficking (most of Paraguay's marijuana harvests are exported and used in Brazil). Finally, the USG and the GOP initialled a financial information exchange agreement aimed at combatting money laundering. These measures demonstrate the GOP's intention to cooperate with the USG and that it is meeting the goals and objectives of the 1988 UN Convention.

There are, however, persistent reports of military corruption and allegations of government officials engaging in money laundering activities.

Peru

While the Government of Peru (GOP) has not made substantial inroads into the flow of cocaine base northward, it has brought to bear significant resources and political will in an effort to disrupt narcotics trafficking in the Huallaga Valley. In 1992, at President Fujimori's direction, the Peruvian armed forces took a more active role in counternarcotics enforcement, although counterterrorism continued to be their priority mission.

The April 5 suspension of constitutional democracy by President Fujimori hindered USG efforts to support Peruvian narcotics-related law enforcement and alternative development efforts in 1992. The strafing of a U.S. C–130 by Peruvian fighters (and death of one U.S. crewman) while on a Peruvian-authorized narcotics mission also complicated bilateral relations. Narcotics corruption remained a significant impediment to GOP counternarcotics efforts in the field.

Despite the suspension of USG military and economic assistance, the GOP significantly increased the number of army engineering battalions assigned to counternarcotics alternative development missions in the Huallaga region and made substantial budgetary contributions to narcotics-related alternative development, including $8.75 million for road rehabilitation, community development and civic action. The Peruvian National Police narcotics unit increased its seizure rate by 50% over last year and improved the quality of its intelligence. The Peruvian Air Force (FAP) established an air defense zone command at Santa Lucia, assigned counternarcotics interceptors to the base, and deployed 50-man security units to seven key municipal airstrips to prohibit their use by narcotrafficking aircraft. By late December, it had resumed participation in a major air interdiction program.

Consistent with the 1988 UN Convention, the GOP issued new legislation to make money laundering a crime and expand controls on essential chemicals. The GOP is taking steps to address the goals and objectives of the 1988 UN Convention on other fronts as well.

Peru must surmount major obstacles such as human rights abuse, terrorism, a depressed economy and corruption in order to implement an effective long-term counternarcotics policy. Against this backdrop, the Fujimori government displayed a greater willingness to use the limited resources at its disposal for counternarcotics activities. Results, however, were limited, particularly in relation to the size of the problem.

Thailand

While no longer a major source country for opiates (its production potential was estimated as 24 mt of opium in 1992), Thailand remains the primary conduit for heroin from the Golden Triangle sold in the United States. Thailand began to address some of its problems with the August 1991 passage of narcotics conspiracy and forfeiture laws; in 1992, the first arrests were made under these statutes, but the cases have not yet come to trial. In 1992, the Police Narcotics Suppression Bureau was made a separate organization within the National Police and grew to over 500 officers, and Thai authorities arrested 52 major traffickers, compared to 32 in 1991. A new extradition treaty with the United States came into effect in May 1991, and the exchange of instruments of ratification of a Mutual Legal Assistance Treaty is expected early in 1993. Widespread police corruption, expanding cross-border trade with Burma, and the involvement of influential Thai and Sino-Thai tycoons in the narcotics trade with the connivance of some Thai officials are serious impediments to more effective counternarcotics action. Thailand is also of concern as a potential money-laundering center.

While there are serious flaws in Thailand's counternarcotics effort, Thailand is devoting increased resources of its own to narcotics interdiction, public education, and drug treatment. It has sought to encourage regional cooperation with Laos and Burma, works well with Malaysia, and continues to cooperate actively with U.S. law enforcement agencies.

Thailand has in place nearly all the laws and regulations needed for it to accede to the 1988 UN Convention. RTG policy initiatives plus accession to the Convention will mean that Thailand has moved significantly toward meeting the goals and objectives of the Convention.

Venezuela

Venezuela is a significant transit country for cocaine, chemicals and, on a smaller scale, heroin. Although domestic GOV seizures in calendar year

1992 totalled slightly more than 3 mt, seizures outside Venezuela of drugs transshipped from Venezuela totalled more than 30 mt. Venezuelan law enforcement agencies provided information leading to many of the seizures. Venezuela is a Colombian drug trafficker hub.

Pervasive corruption and money laundering remain acknowledged problems in Venezuela and are serious impediments to effective law enforcement activities against narcotics trafficking. While the GOV is making an effort to deal with these problems, much remains to be done.

The Government of Venezuela (GOV) supported stronger bilateral counterdrug cooperation with the USG during 1992. Cooperation with the Judicial Technical Police and the Directorate of Intelligence and Prevention Services led to significant seizures of drugs and documents inside and outside Venezuela. The GOV evidenced its commitment to rid Venezuela of traffickers when it expelled to Italy the Cuntreras brothers, three suspected members of an international cocaine trafficking ring.

The GOV, which participated in the 1992 San Antonio Summit, is a signatory to the 1988 UN Convention. The GOV has performed effectively in complying with the interdiction goals of the Convention; however, it has fallen short on money laundering and chemical controls because it lacks legislation criminalizing money laundering or regulating commerce in precursor and essential chemicals. The GOV does, however, require Venezuelan banks dealing in foreign exchange to maintain cash transaction reports, and it is working towards fulfilling UN Convention requirements to control specific chemicals. The GOV has signed, but not fully implemented, agreements with the USG on case-specific asset sharing, drug awareness, and maritime cooperation. In 1992, Venezuela worked with Colombia to combat drug trafficking along their common border.

Anti-narcotics initiatives announced by President Carlos Andres Perez in mid-1991 were not fully carried out, largely because of two coup attempts, February 4 and November 27, 1992. The GOV's concern with public order overrode the implementation of the proposed national strategy and creation of the operational unified drug command. Problems with a key GOV counterpart (the National Guard) caused the USG to shift assistance programs to new entities.

JUSTIFICATIONS FOR A NATIONAL INTEREST WAIVER

Afghanistan

The USG estimates that opium poppy cultivation in Afghanistan, the second largest producer in the world, increased 12 percent in 1992, from 17,190 hectares in 1991 to 19,470 hectares in 1992, potentially producing 640 metric tons of opium. Increases in opium production in 1992 may be attributed primarily to deteriorating economic conditions which pressure farmers—and returning refugees—to produce more opium for a cash crop. Afghan opium is principally refined into heroin in illegal labs operating in Pakistan's Northwest Frontier Province. About 20 percent of the heroin consumed in the U.S. comes from Southwest Asia, particularly Afghanistan and Pakistan, while most of the heroin exported from the region is destined for European markets.

In official contacts, the Government of Afghanistan (GOA) has assured the USG that it will undertake a strong anti-narcotics policy, recognizing that it is in the nation's own interest. In October 1992, the GOA published a decree establishing an Inter-Ministerial Counternarcotics Commission with an initial mandate of formulating a national counternarcotics strategy. Representatives from Afghanistan participated in two UN counterdrug conferences in 1992. There are indications that regional commanders in Afghanistan are taking nascent steps to combat drug production, trafficking and abuse. While the signs are good, the USG does not have a diplomatic

presence in Afghanistan and therefore cannot accurately evaluate Afghanistan's practical progress in implementing the 1988 UN Convention, which the country ratified in 1992. However, it appears that progress is too limited to warrant certification.

Despite signs of interest in drug control, the Afghanistan Government's professed good intentions are hampered by political instability, competing priorities, insufficient resources and, most importantly, lack of authority in the hinterland much beyond Kabul. However, U.S. policy objectives for the region, including Afghan narcotics control and national stability, justify a national interest waiver certification for Afghanistan. If allowed to flourish, the drug trade in Afghanistan will threaten the country's move towards democracy, undermine the security of surrounding countries, and increase the potential supply of drugs reaching the U.S. market. A national interest waiver paves the way for enhanced U.S. assistance to Afghanistan, when the timing is right, aid which could help reestablish national stability. U.S. vital national interests in Afghanistan outweigh the USG's interest in insisting upon full counternarcotics cooperation with the GOA under current circumstances.

In September 1992, the USG concluded an agreement for a small cross-border narcotics control project with a non-governmental organization in Kandahar province. The U.S. hopes to conclude additional arrangements for the provision of financial assistance to combat illegal drugs with the central government and/or regional leaders and organizations when they are fully able to participate.

Lebanon

Lebanon is a major drug producing and trafficking country. In addition to traditional hashish production, opium is cultivated and processed into heroin in Lebanon, and Lebanese traffickers have become increasingly involved in the cocaine trade.

Since 1976, Syrian troops have occupied Lebanon's Biqa' Valley, and they constitute the only formal security authority in this area. Following a harsh winter that destroyed large areas of the opium and cannabis crops in the Biqa' Valley, there were signs of greater cooperation between Syria and Lebanon to control drug production and trafficking in the region. Syrian forces worked with Lebanese authorities to eradicate remaining opium and cannabis cultivation, and to enforce the Lebanese Government's ban on further cultivation of illicit crops. However, the area continued to be a major center for processing heroin.

The political situation in Lebanon continues to impede effective counternarcotics efforts by the Lebanese Government, and to hamper its capacity to cooperate fully with the USG on narcotics control matters. It is not possible for the Lebanese Government to advance significantly the goals and objectives of the 1988 UN Convention in any meaningful way because it lacks control in the Biqa' Valley.

Nonetheless, vital U.S. national interests—in maintaining peace and stability in the region and preserving the territorial integrity of Lebanon—would be damaged by a weakening or collapse of the Lebanese Government. These vital national interests would be placed at risk by a cessation of U.S. assistance, and this risk outweighs the USG's interest in insisting upon full counternarcotics cooperation from the Government of Lebanon under current circumstances. The United States seeks to retain the flexibility to respond to Lebanon's legitimate needs for economic and developmental assistance.

STATEMENTS IN SUPPORT OF DENIAL OF CERTIFICATION

Burma

Despite frequent public statements and some law enforcement actions, the Government of Burma has not undertaken serious or sustained counternarcotics efforts since 1988. While estimated opium production dropped slightly, the drop was accounted for entirely by a decline in an area controlled by an ethnic insurgency group in active conflict with Rangoon. Production elsewhere in the country increased marginally.

The Government's political and military accommodations with some of the insurgent/trafficking groups continued, with no indication of the reduced opium reduction which the government claims is the goal of these arrangements. Indeed, these relationships appear to continue to facilitate the drug operations of the armed traffickers. Burma did enter into separate tripartite agreements with the United Nations Drug Control Program (UNDCP) and Thailand, China and Laos for long-term narcotics control projects. However, the projects have yet to make meaningful progress and are on such small scale that in themselves they can only hope to serve as models. Burma has permitted a small-scale opium yield survey by U.S. researchers, but refused to fulfill a commitment to conduct a baseline aerial survey of the UNDCP project areas.

The GOB is a party to the 1988 UN Convention, but made reservations on extradition and the submission of disputes to the World Court. The GOB in January, 1993, promulgated a new narcotics law designed to move Burma towards conformity with the 1988 UN Convention. The new law appears to meet several of the goals and objectives of the Convention, but it is too soon to know how the military government will interpret and enforce the new legislation, which will be more significant than the text itself.

Iran

The Government of Iran (GOI) did not cooperate in illegal drug control with the United States in 1992. However, the GOI did engage in some counternarcotics arrangements with the UN and cooperated in some law enforcement areas with certain neighboring countries. While the Iranian authorities made certain claims of counternarcotics activity, the USG's information to confirm this activity is not such that the USG is able to certify Iran under current U.S. law. Nor can the USG evaluate the extent to which the GOI has advanced the goals and objectives of the 1988 UN Convention which it ratified in 1992, but we believe the extent is minimal.

Iran is historically a transshipment point for opium and heroin from Pakistan and Afghanistan destined principally for Europe. Although the GOI maintains that opium poppy cultivation has been eradicated, the USG estimates that cultivation continued at a level of 350 hectares in 1992 with a potential opium yield between 30 and 70 metric tons.

Syria

Syria is a transit country for illicit hashish and heroin and a suspected site for refining of small amounts of opium into heroin. Following a harsh winter that destroyed large areas of the opium and cannabis crops in the Biqa' Valley, there were signs of greater cooperation between Syria and Lebanon to control drug production and trafficking in the region. Syrian forces worked with Lebanese authorities to eradicate remaining opium and cannabis cultivation and to enforce the Lebanese Government's ban on further cultivation of illicit crops. However, the area continued to be a major center for processing heroin.

There were continuing credible reports of involvement by Syrian military officials in the drug trade. Syria has not taken effective measures to prevent and punish the corruption of senior government officials that facilitates production, processing, or trafficking of narcotics.

The Syrian Government did little to meet U.S. concerns about the involvement of its officials in facilitating the Lebanese drug trade, nor did it take adequate steps to justify counternarcotics certification.

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Rules and Regulations

Federal Register
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Monday, April 12, 1993

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–81–AD; Amendment 39–8532; AD 93–06–07]

Airworthiness Directives; de Havilland, Inc., Model DHC–7, DHC–8–100, and DHC–8–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model DHC–7, DHC–8–100, and DHC–8–300 series airplanes, that requires modification or replacement of both quantity limiting valves (QLV) in the inboard nacelles. This amendment is prompted by a report of corrosion found on the QLV valve assembly, which prevented the piston from stopping a discharge of hydraulic fluid. The actions specified by this AD are intended to prevent the loss of both hydraulic systems due to depletion of hydraulic fluid.

DATES: Effective May 12, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 12, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Danko Kramar, Aerospace Engineer, New York Aircraft Certification Office, Systems and Equipment Branch, ANE–173, FAA, Engine and Propeller Directorate, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6427; fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Model DHC–7, DHC–8–100, and DHC–8–300 series airplanes was published in the **Federal Register** on July 6, 1992 (57 FR 29684). That action proposed to require modification or replacement of both quantity limiting valves (QLV) in the inboard nacelles.

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

One commenter supports the rule as proposed.

One commenter requests that the compliance time for the proposed modification of certain Model DHC–8–100 and DHC–8–300 series airplanes be extended from the proposed 1,000 hours time-in-service to 3,000 hours time-in-service. The commenter has been advised by the manufacturer of the QLV modification kits that there may be a modification kit availability problem. In the interim, the commenter suggests that the rule require a QLV operational check within 1,000 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 1,000 hours time-in-service. The commenter believes that these repetitive operational checks will provide an acceptable level of safety until the QLV's are replaced. The FAA does not concur with the commenter's request to extend the compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the availability of required parts and the practical aspect of installing the required modification within a maximum interval of time allowable for all affected airplanes to continue to operate without compromising safety. The FAA has determined that an ample number of required parts will be available for modification of the U.S. fleet within the proposed compliance period. The FAA considers that the repetitive operational checks suggested by the commenter may not be suitable for all other operators. However, under the provisions of paragraph (d) of the final rule, the FAA may approve requests for adjustments to the compliance time if data is submitted that substantiates that such an adjustment would provide an acceptable level of safety.

One commenter requests that the phrase "Prior to the accumulation of 1,000 hours time-in-service after the effective date of this AD," as related to the compliance time specified in paragraph (a) of the proposal, be revised to "Within 1,000 hours time-in-service after the effective date of this AD." The commenter contends that the proposed phrase is not incorrect; however, such language is usually reserved for describing a threshold period. The FAA concurs that the commenter's suggestion would clarify the intended compliance time. This language in both paragraph (a) and paragraph (b) of the final rule has been revised accordingly.

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

The FAA estimates that 131 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will cost approximately $57 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $43,492, or $332 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. 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:

93–06–07 DE HAVILLAND, INC.: Amendment 39–8532. Docket 92–NM–81–AD.

Applicability: Model DHC–7 series airplanes, serial numbers 003 through 113, inclusive; Model DHC–8–102 and –103 series airplanes, serial numbers 003 through 321, inclusive; and Model DHC–8–301 and –311 series airplanes, serial numbers 100 through 320, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of both hydraulic systems due to depletion of hydraulic fluid, accomplish the following:

(a) For Model DHC–7 series airplanes: Within 1,000 hours time-in-service after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs first, remove the existing Quantity Limiting Valves (QLV), from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 7/2610; in accordance with de Havilland Service Bulletin S.B. 7–29–20, dated March 20, 1992.

(b) For Model DHC–8–102 and –103 series airplanes and Model DHC–8–301 and –311 series airplanes that have accumulated 6,700 total hours time-in-service or more as of the effective date of this AD, or if 50 months or more have passed since the airplane was manufactured as of the effective date of this AD: Within 1,000 hours time-in-service after the effective date of this AD, or within 6 months after the effective date of this AD, whichever occurs first, remove the existing QLV from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 8/1803; in accordance with de Havilland Service Bulletin S.B. 8–29–21, dated March 20, 1992.

(c) For Model DHC–8–102 and –103 series airplanes and Model DHC–8–301 and –311 series airplanes that have accumulated less than 6,700 total hours time-in-service as of the effective date of this AD and if less than 50 months have passed since the airplane was manufactured as of the effective date of this AD: Prior to the accumulation of 7,700 hours time-in-service since the airplane was manufactured, or within 12 months after the effective date of this AD, whichever occurs first, remove the existing QLV from the left- and right-hand inboard nacelles; and modify or replace them with new QLV, Modification 8/1803; in accordance with de Havilland Service Bulletin S.B. 8–29–21, dated March 20, 1992.

(d) 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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

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

(f) The removal, modification, and replacement shall be done in accordance with de Havilland Service Bulletin S.B. 7–29–20, dated March 20, 1992 (for Model DHC–7 series airplanes); or de Havilland Service Bulletin S.B. 8–29–21, dated March 20, 1992 (for Model DHC–8–102 and –103 series airplanes and Model DHC–8–301 and –311 series airplanes); as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from de Havilland, Inc., Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 181 South Franklin Avenue, room 202, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on May 12, 1993.

Issued in Renton, Washington, on April 1, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–8062 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239, 270 and 274

[Release Nos. 33–6988; IC–19382; S7–1–90]

RIN 3235–AD81

Disclosure of Mutual Fund Performance and Portfolio Managers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule and form amendments.

SUMMARY: The Commission is adopting rule and form amendments under the Securities Act of 1933 and the Investment Company Act of 1940 to improve disclosure of the performance of open-end management investment companies ("mutual funds") in their prospectuses and annual reports to shareholders. Under the amendments, a mutual fund is required to include in its prospectus or, alternatively, in its annual report to shareholders a discussion of those factors, strategies, and techniques that materially affected its performance during its most recently completed fiscal year; and a line graph comparing its performance to that of an appropriate broad-based securities market index. In addition, the amendments revise the content and format of the condensed financial information contained in the prospectus and require disclosure about portfolio managers. The rule and form amendments will provide investors with additional information concerning mutual fund performance and the individuals responsible for that performance.

EFFECTIVE DATE: July 1, 1993. This is the effective date for most but not all mutual funds. For the specific applicability of the effective date to individual funds, see Section I.E. of this Release.

FOR FURTHER INFORMATION CONTACT: With respect to the amendments generally, Martha H. Platt, Senior Attorney, or Robert E. Plaze, Assistant

Director, (202) 272–2107, Office of Disclosure and Adviser Regulation; with respect to the revisions to the condensed financial information, Lawrence A. Friend, Chief Accountant, (202) 272–2106, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is adopting amendments to:

(1) Form N–1A (17 CFR 239.15A, 274.11A), the registration form used by open-end management investment companies ("funds" or "mutual funds") to register under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) ("1940 Act") and to register securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) ("1933 Act"), that: (a) Revise substantially the condensed financial information contained in the prospectus; (b) require disclosure about the person(s) primarily responsible for the day-to-day management of the fund's portfolio; and (c) require a fund to provide in its prospectus or, alternatively, its annual report to shareholders: (i) A discussion of those factors, strategies, and techniques that materially affected its performance during the period of the report; (ii) a line graph comparison of its performance to that of an appropriate broad-based securities market index over the last ten years; and (iii) related information about the impact of maintaining guaranteed distributions;

(2) Form N–14 (17 CFR 239.23) to reflect the new disclosure item in Form N–1A; and

(3) Rule 34b–1 under the 1940 Act (17 CFR 270.34b–1) to exclude performance information included in periodic reports to shareholders from certain of the rule's requirements.

TABLE OF CONTENTS

I. Discussion
A. Financial Highlights
B. Portfolio Managers
C. Management's Discussion of Fund Performance
1. Disclosure Document
2. Narrative Discussion of Fund Performance
3. Index Comparison
4. Disclosure Regarding Maintenance of Fixed Distribution Levels
5. Money Market Funds
D. Miscellaneous
1. Sales Literature
2. Form N–14
E. Date of Effectiveness
1. Prospectuses
2. Annual Reports
II. Cost/Benefit Analysis
III. Regulatory Flexibility Act Analysis
IV. Text of Final Rule and Form Amendments
Appendix: Sample Performance Graph

I. Discussion

On January 8, 1990, the Commission issued a release proposing amendments to Form N–1A ("Proposing Release").[1] The proposals were designed to improve disclosure made to mutual fund investors in three areas by: (i) Revising and simplifying the per share table; (ii) requiring disclosure about persons who contribute significantly to the investment advice relied on by the fund (the "portfolio manager"); and (iii) providing investors with a "management's discussion and analysis" of investment performance that would give fund management an opportunity to explain the fund's investment results ("Management's Discussion of Fund Performance" or "Management's Discussion"). In response to the proposed amendments, the Commission received 669 comment letters, 617 of which were from individual investors.

The Commission has decided to adopt the proposed amendments and related rule changes, modified to reflect many of the comments received. These revised disclosure requirements will give investors more information upon which to evaluate the performance of mutual funds and the individuals responsible for that performance.

A. Financial Highlights

The Commission proposed substantial revisions to the condensed financial information ("per share table") contained in mutual fund prospectuses to shorten and simplify the table. In addition, the Commission proposed adding to the table a line showing the fund's total return during each of the reported periods. Most commenters who addressed this proposal endorsed these changes. One commenter proposed organizing the data in a manner that will permit investors to trace more easily the operating performance of the fund on a per share basis from the fund's beginning net asset value to its ending net asset value so that they may understand the sources of changes.[2] The revised format in which these proposals are being adopted is based on the recommendations of that commenter.[3] The table is substantially the same as one contained in recent amendments to Form N–2, the registration form for closed-end investment companies, and is called "Financial Highlights."[4]

B. Portfolio Managers

The proposed amendments to Form N–1A would have added a new Item 5(c) to require prospectus disclosure about all persons who significantly contribute to the investment advice relied on to manage the fund's portfolio. The Commission received 667 comment letters, most of which were from individual investors supporting the proposed disclosure requirement. Industry commenters argued that the scope of any new disclosure requirement should be more circumscribed than the Commission's proposal.

After considering the comments received, the Commission has determined to modify the proposed item to identify more clearly the individuals that must be named in response to the item and to narrow its scope somewhat. As adopted, Item 5(c) requires a fund to disclose the name and title of the person or persons employed by or associated with the fund or its adviser "who are primarily responsible for the day-to-day management of the fund's portfolio."

The item is substantially the same as Item 9.1.c. of Form N–2, as recently amended.[5] As in the case of Item 9.1.c., if all investment decisions for a fund are made by a committee and no person(s) is primarily responsible for making recommendations to that committee, no

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[1] Investment Company Act Rel. No. 17294 (Jan. 8, 1990) [55 FR 1460 (Jan. 16, 1990)] (File No. S7–1–90). The comment letters, as well as two comment summaries prepared by the Commission staff, are available for public inspection and copying at the Commission's Public Reference Room.

[2] See Letter from T. Rowe Price Associates to Jonathan G. Katz (Mar. 14, 1990), File No. S7–1–90.

[3] In addition, the Commission is adding an instruction to the table exempting money market funds from the requirement to state their portfolio turnover rates. See Instruction 13 to Item 3. Although not previously exempted, money market funds, in effect, had not been required to respond to this item because it instructed funds to omit from the calculation any security that matured within one year. Until 1991, substantially all securities held by money market funds matured within one year. In 1991, the Commission amended rule 2a–7 to lengthen the permitted maximum maturity of securities held by money market funds to 397 days (13 months) and, in certain cases, 762 days (25 months) if the security is a Government security. See Rule 2a–7(c)(2) (17 CFR 270.2a–7(c)(2)) and Investment Company Act Rel. No. 18005 (Feb. 20, 1991) (56 FR 8113 (Feb. 27, 1991)). Money market funds could therefore have been required to respond to this item. This instruction, which codifies a no-action position taken by the Division of Investment Management in Investment Company Institute (pub. avail. Aug. 6, 1991), makes clear that these funds are exempt.

[4] Investment Company Act Rel. No. 19115 (Nov. 20, 1992) (57 FR 56826 (Dec. 1, 1992)) ("Release 19115"). The differences in the financial highlights tables in Forms N–1A and N–2 result from functional differences between these types of funds (e.g., closed-end funds issue senior securities). In addition, the Commission has revised the captions in the table slightly from those adopted in Form N–2. Closed-end funds may use the modified captions in their prospectuses.

[5] Id.

individuals need be identified by the fund.[6] However, Item 5(c) contains an additional instruction, which states that its requirements do not apply to money market funds and index funds.[7] Money market funds have been excluded because they must meet the risk-limiting conditions of rule 2a–7 under the 1940 Act (17 CFR 270.2a–7), which constrains the role of the portfolio manager.[8] Index funds, which have as their investment objective replicating the performance of a specified securities index, have been excluded because the portfolio management of such funds is largely mechanical. However, an "index plus" fund, which has as its objective out-performing the performance of a specified fund index, would be required to respond to the item since its portfolio manager would have to make investment decisions that go beyond replicating the performance of the index.

Funds are required to update their prospectuses to disclose material changes subsequent to the effective date of the registration statement or any post-effective amendment. This updated disclosure usually would be set forth in a prospectus supplement or "sticker" that is filed with the Commission and delivered to investors.[9] Several commenters expressed concern that the new portfolio manager disclosure requirement would impose burdensome updating requirements when the portfolio manager changed. Several of these commenters appeared to interpret the proposal to require disclosure about a potentially large group of advisory personnel. As discussed above, the new item, as adopted, addresses this concern.

In addition, several commenters believed that the portfolio manager disclosure would obligate funds to make additional mass mailings of stickers to fund shareholders. Consistent with current requirements, the fund prospectus, stickered to reflect a change in the portfolio manager, would be delivered to new investors in a fund. New investors would include any current fund shareholder who is acquiring new fund shares through additional cash purchases (other than through a dividend reinvestment plan but including shares purchased through an automatic cash investment plan).[10] So long as the current fund shareholder previously received the fund's prospectus, only the sticker need be delivered.[11] Current shareholders who are not new fund investors could receive the sticker in the fund's next regular mailing. Of course, a fund is free to send the sticker to all fund shareholders in an additional mailing.

C. Management's Discussion of Fund Performance

In the Proposing Release, the Commission requested comment on two alternative approaches to a Management's Discussion requirement. Alternative I would have required a fund to discuss and analyze its previous fiscal year's performance and the techniques used to achieve that performance in light of the fund's investment objectives. Alternative II would have required a fund to compare its total return to that of an appropriate securities index over specified time periods. Either alternative would have required a fund that has a formal or informal policy of maintaining a specified level of distributions to discuss the effects that the policy has had on the fund's investment strategies and per share net asset value during the previous fiscal year. In addition, the Commission requested comment on whether the Management's Discussion should combine elements of both alternatives.

Individual investor commenters overwhelmingly favored the Management's Discussion proposals, citing the value of the information in understanding fund performance. Many investors wrote that they did not believe mutual funds currently provide sufficient information to permit investors readily to evaluate fund investment results. Most commenters representing the mutual fund industry objected to elements of both alternatives. They cited the subjective judgments that a fund would have to make in either analyzing its performance or selecting a securities index as their principal objections to the proposal.

One industry commenter, along with a majority of the individual investors, argued that the alternatives should be combined. This commenter believed that implementing both proposals would obligate a fund to discuss its performance record, reference a standard against which its investment results may be evaluated, and provide an explanation if the results diverged from that standard. The Commission agrees, and is adopting an approach that combines features of both alternatives, as explained in greater detail below.

1. Disclosure Document

The proposed amendments to Form N–1A would have required that the Management's Discussion be in either the prospectus or, if the annual report is incorporated by reference into the prospectus, in the annual reports to shareholders.[12] In response to comments, the Commission is retaining the alternatives but is not requiring that an annual report containing the Management's Discussion be incorporated by reference into the prospectus.[13] So that new or prospective investors may avail themselves of this new disclosure, the Commission is requiring a fund that places the Management's Discussion information in its annual report to disclose in its prospectus that its annual report contains additional performance information that will be made available upon request and without charge.[14]

2. Narrative Discussion of Fund Performance

As proposed, Alternative I would have required a separate discussion and

[6] See Item 5(c), Instruction 2. This exception is very narrowly drawn and is not applicable to a committee that merely ratifies the decisions of a portfolio manager or establishes broad strategies followed by a portfolio manager. This provision was also included in the recent amendments to Form N–2. See Investment Company Act Rel. No. 19115 at Sec. II.3., Item 9.

[7] Instruction 3.

[8] Rule 2a–7 is the exemptive rule used by most money market funds to maintain a stable net asset value. All money market funds are subject to certain risk-limiting conditions, *e.g.*, they may only invest in short-term, dollar-denominated debt securities having minimal credit risks, and their average portfolio maturity may not exceed 90 days. See Investment Company Act Rel. No. 18005, *supra* note 3.

[9] The "sticker" would be filed in accordance with rule 497 under the 1933 Act (17 CFR 270.497). In addition to updating by a sticker, fund prospectuses may be updated by a post-effective amendment to a fund's registration statement. Under rule 485(b), post-effective amendments that currently are eligible to be filed under paragraph (b) will continue to be so eligible, notwithstanding the addition of, or changes to, information provided in response to Item 5(c).

[10] If a sales load is deducted from reinvested dividends, the dividends reinvested are treated the same as additional cash purchases. Investment Company Act Rel. No. 6480 (May 10, 1971) (36 FR 9627 (May 27, 1971)).

[11] Securities Act Rel. No. 5985 (Oct. 4, 1978) (43 FR 52022 (Nov. 8, 1978)), at note 8.

[12] The proposals would have required that a copy of the annual report either precede or accompany delivery of the prospectus.

[13] The Commission anticipates that, as a result, most funds will place the Management's Discussion in their annual reports. Accordingly, the Commission is not adopting proposed amendments to rule 485(b) under the 1933 Act, which would have permitted post-effective amendments containing the information required by new Item 5A to be eligible for immediate effectiveness under that rule.

[14] A new Part C item also requires a fund that elects to include the Management's Discussion in its annual report instead of its prospectus to undertake in its registration statement to provide the annual report without charge to any recipient of its prospectus who requests the information. See new Item 32(c) of Part C of Form N–1A.

analysis by management of the fund's performance during its most recently completed fiscal year in light of its investment objectives. Specifically, Alternative I would have required each fund to: (i) Identify and evaluate those factors that materially affected its performance; (ii) evaluate the effectiveness of significant investment techniques and strategies used to pursue the fund's investment objectives; and (iii) describe any material effects that those techniques and strategies had on the fund's total return for its last fiscal year.

Mutual fund industry commenters objected that the proposal, as drafted, would require a "self-appraisal" by management of its own past performance. They argued that this is unrealistic because fund investment objectives do not specify "performance targets" or "quantifiable goals" against which a fund can measure its performance.

The Investment Company Institute ("ICI") recommended language that would eliminate the self-evaluative aspects of the proposal and would simply call for a discussion of those factors, strategies, and techniques that materially affected the fund's performance during its most recently completed fiscal year.[15] The Commission is adopting the ICI's suggested language substantially as recommended. Item 5A(a) does not obligate funds to evaluate the effectiveness of the strategies and techniques they employed to achieve their performance, nor does it require funds to assess the extent to which they attained their investment objectives. Rather, the item requires funds to explain what happened during the previous fiscal year and why it happened. The narrative must describe what techniques or strategies, within the fund's investment objectives and limitations, management used that, together with market conditions and events, resulted in the performance of the fund.

3. Index Comparison

As proposed, Alternative II would have required a fund to compare its performance to that of an appropriate securities market index. The Commission is adopting an index comparison reporting requirement similar to that proposed, but is requiring that the index comparison be provided in the format of a line graph.[16] This format is similar to the format recently adopted by the Commission to be included in the disclosure of executive compensation under the 1933 Act and the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).[17] The graph is designed to permit a comparison of the performance of the fund with "the market," and to put the narrative discussion into perspective. A sample graph appears as an appendix to this release.

A number of industry commenters said that comparing an unmanaged, expense-free index to a managed, expense-bearing fund would be inappropriate. The line graph assumes portfolios that have been assembled before beginning the measuring periods and thus need not reflect acquisition costs. As the Commission explained in the proposing release, an actively managed portfolio will have transaction and other costs, including advisory fees, which must be appropriately reflected in performance as the costs of managing a portfolio. An index adjusted for such fees and expenses would not be an objectively maintained benchmark and would penalize low-cost funds vis-a-vis high-cost funds.[18]

Commenters pointed out what they viewed as significant differences between funds and recognized indexes. However, as several commenters acknowledged, it is common practice for funds to include index comparisons in their annual reports and sales literature. To this extent, the adoption of this disclosure requirement is a codification of the disclosure practices of some funds. Moreover, comparisons are widely used by investment professionals in evaluating the performance of mutual funds, and are frequently used in the mutual fund industry as a means of measuring the compensation of portfolio managers and, in some cases, investment advisers to mutual funds. If a fund believes that the comparison is inapposite in ways that are not readily apparent, it should discuss these differences in the narrative portion of the Management's Discussion.

Some fund commenters argued that the diversity of funds and their range of investment strategies make selecting an index difficult. Item 5A(b) gives a fund considerable flexibility in selecting a broad-based index that it believes best reflects the market(s) in which it invests.

Instructions to Item 5A(b) provide funds with guidance in creating the line graph. The instructions for the line measuring fund performance generally follow the instructions in Item 22 of Form N–1A for the calculation of fund total return used in fund advertisements and sales literature.[19] The graph must assume a $10,000 hypothetical investment and reflect all fund expenses, sales loads, and any account fees.[20]

Item 5A(b) requires that a broad-based securities market index, such as the S&P 500, the Nikkei Index, or the Lehman Corporate Bond Index be used in the graphic comparison. The Commission has chosen to require funds to use a broad-based index in order to provide investors with a benchmark for evaluating fund performance that

[15] See Letter from the ICI to Jonathan G. Katz (Mar. 12, 1990), File No. S7–1–90.

[16] Registrants filing the Management's Discussion on the Commission's Electronic Data Gathering, Analysis and Retrieval ("EDGAR") System should refer to paragraphs (a) through (c) of rule 304 under Regulation S–T [17 CFR 232.304 (a)(c)] and the EDGAR Filer Manual for the rules and technical requirements related to the filing of graphic material on the EDGAR System. The information contained in the line graph would be described in the electronically submitted document, preferably through the use of a chart that would provide for each of the data points on the graph (*i.e.*, the beginning of each of the ten years), the account value of the investment in the registrant, and the investment in the index. The paper version would, of course, contain the required line graph.

[17] Securities Exchange Act Rel. No. 31327 (Oct. 16, 1992) (57 FR 48125 (Oct. 21, 1992)). Investment companies were excepted from these requirements because their management is usually performed externally. *Id.* at Section I.

[18] Accordingly, Instruction 7 to Item 5A(b) provides that the securities market index may not be adjusted to reflect fund expenses. The line graph for funds that serve as underlying investment vehicles for unit investment trusts offering periodic payment plans and those organized as insurance company separate accounts offering variable insurance contracts will not reflect trust (separate account) expenses. These funds should prominently disclose that the line graph does not reflect trust (separate account) expenses. In contrast, separate accounts may not advertise underlying fund performance unless accompanied by separate account performance which reflects separate account expenses. Investment Company Act Rel. No. 16245 (Feb. 2, 1988) (53 FR 3868 (Feb. 10, 1988)), Sec. II.7.

[19] Two instructions address issues regarding the computation of fund performance which have been addressed by the Division of Investment Management in the context of mutual fund advertisements and sales literature. Instruction 5 provides that, if the fund has not been in operation during each of the ten fiscal years, the fund may commence the line graph at either the effective date of its registration statement under the 1933 Act or the date it commenced operations, *i.e.*, began to invest its assets in accordance with its investment objectives, provided that that date is subsequent to the effective date of the registration statement. See The Fairmont Fund Trust (pub. avail. Dec. 9, 1988), note 1. Instruction 6 provides that, in certain circumstances, the fund may eliminate performance prior to the date the current investment adviser began to provide advisory services to the fund. See Investment Trust of Boston Funds (pub. avail. Apr. 13, 1989) and Unified Funds (pub. avail. Apr. 23, 1991).

[20] Instruction 4(c) provides guidance as to the appropriate method for allocating flat dollar account fees (*e.g.*, $100) among series of a series fund, and is taken from Instruction 21(e) to Item 3(a) of Form N–4, the registration form used by insurance company separate accounts offering variable annuity contracts. (17 CFR 274.11c.)

affords a greater basis for comparability than a narrow index would afford.[21]

Several commenters urged the Commission to permit peer group comparisons for all funds. They argued that an investor wants to know how his or her fund performed in comparison with other funds having similar investment objectives. The Commission has not adopted this approach. The index comparison requirement is designed to show how much value the management of the fund added by showing whether the fund "out-performed" or "under-performed" the market, and not so much whether one fund "out-performed" another.[22] A fund could underperform a relevant market, while nevertheless comparing favorably with its peers. In addition to the comparison required (with a broad-based index), the Commission is urging funds to compare their performance with other, more narrowly-based indexes. In addition, a registrant may compare its performance to an additional broad-based index or non-securities index, such as the Consumer Price Index, provided that the comparison is not set forth in a misleading manner.[23]

Instruction 7 places general limitations on the kind of index that can be used. To prevent a conflict of interest from arising, the index must be created and administered by an organization that is not an affiliated person of the fund, its adviser or principal underwriter, unless the index is widely recognized and used.[24] In the latter case, the potential for conflict is diminished because the index is used for purposes other than as a benchmark against which to measure fund performance.

Item 5A(b) permits funds to change indexes, provided certain conditions are met. Instruction 12 requires that funds explain the reasons for any change and include the previously used index comparison in the Management's Discussion in which the new index first appears.[25]

Item 5A(b) requires that, within or contiguous to the graph, funds include their average annual total return for the one, five and ten year periods ending on the last day of the most recently completed fiscal year calculated in conformance with Item 22 of Form N–1A. These are the "standardized" total return figures used in advertisements and sales literature.[26] This information will assist investors in comparing the performance of different funds. Finally, the line graph must be accompanied by a statement that past performance is not predictive of future performance.

4. Disclosure Regarding Maintenance of Fixed Distribution Levels

As proposed, Item 5A(c) requires each fund that has a policy or practice of maintaining a specified level of distributions to its shareholders to report what impact that policy had on the fund's investment strategies and per share net asset value during its last fiscal year. Commenters generally believed that this information would help investors better appreciate the extent to which the strategies used to maintain a particular distribution level affected the value of their investments.

While the other requirements of new Item 5A concentrate on overall fund performance, this requirement focuses on how the fund sustained its distribution rate and any consequent changes in per share net asset value. From a fund's response to this disclosure requirement, the investor should have a clearer picture of whether the fund had to distribute capital, as well as profits, to maintain its distribution rate.

5. Money Market Funds

Money market funds would be exempt from the Management's Discussion requirement. The problems that the Management's Discussion requirement seeks to address with respect to investor understanding of performance do not appear to exist with respect to money market funds. Of course, money market funds retain the option of providing investors with a discussion of their performance, including illustrative line graphs.

D. Miscellaneous

1. Sales Literature

As proposed, the Commission is adopting technical amendments to rule 34b–1.[27] Among other things, the rule requires performance information in sales literature to be reasonably current, and thus periodically updated so that the performance data is not stale.[28] The amendments exclude from the updating requirements performance information contained in periodic reports to shareholders.[29]

2. Form N–14

Form N–14 is the registration form used by investment companies to register under the 1933 Act securities to be issued in mergers and other forms of business combination. The Commission is amending Item 5(a) of Form N–14 to require that security holders voting on (or consenting to) a merger or other business combination be furnished with the Management's Discussion information required by Item 5A.[30] The

[21] A broad-based index is one that provides investors with a performance indicator of the overall applicable stock or bond markets, as appropriate. An index would not be considered to be broad-based if it is composed of securities of firms in a particular industry or group of related industries.

[22] The average annual total return figures that are required to be within or contiguous to the line graph will provide a basis for comparing one fund to another. See discussion of Item 5A(b) below.

[23] See Item 5A(b), Instruction 8.

[24] The term "affiliated person" is defined in section 2(a)(3) of the 1940 Act (15 U.S.C. 80a–2(a)(3)).

[25] Both indexes must cover the entire 10-year period during the transition year.

[26] Rule 34b–1 requires that sales literature containing performance information include the same uniformly-computed average annual total return figures required by rule 482 under the 1933 Act to be included in advertisements containing performance information. Rule 34b–1 provides an exception for reports to shareholders, including annual reports, that contain performance data covering only the period of the report. See Proposing Release at Section II.B.3(d). The Commission is amending rule 34b–1. See discussion *infra* at Section D.1 of this Release.

[27] Rule 34b–1 excludes annual reports to shareholders under section 30(d) of the 1940 Act that contain only performance data for the period of the report. In Investment Company Act Rel. No. 16254 (Feb. 2, 1988) (53 FR 3868 (Feb. 10, 1988)) at n. 39 the Commission stated that inclusion of financial statements (including the per share table) in an annual report does not trigger the uniform disclosure provisions of rule 34b–1. The addition of total return figures to the per share table (now, financial highlights) in response to amended Item 3(a) will not trigger the provisions of rule 34b–1 provided that the figures are given no special prominence from the other data in the table.

[28] A note to rule 34b–1 provides that the currentness provisions of paragraph (f) of rule 482 (17 CFR 230.482(f)) also apply to sales literature. Thus, all performance information in sales literature must be as current as practicable considering the type of investment company and the media through which the advertising will be conveyed, but total return is updated only quarterly. The staff has interpreted these provisions to require quarterly updating of any performance information in sales literature.

[29] In addition, and as proposed, the Commission is adding a sentence to the note to rule 34b–1 clarifying that the currentness provisions apply from the date of distribution of sales literature and not from the date of submission for publication. The Commission is also revising rule 34b–1 to correct a drafting error in Release 18005, *supra* note 3, which, among other things, amended rule 34b–1 to require that money market fund sales literature include the legend required by paragraph (a)(7) of rule 482 under the 1933 Act (17 CFR 230.482(a)(7)). Paragraph (a)(7) requires a money market fund to disclose that an investment in the fund is not insured by the U.S. government and that there can be no assurance that the fund will maintain a stable net asset value. Unintentionally, this requirement was limited to money market fund sales literature containing performance information. To correct this, the rule has been redrafted into two sections—paragraph (a), which applies to all money market fund sales literature, and paragraph (b), which only applies to sales literature containing performance information.

[30] Item 5 of Form N–14, as amended, requires that the Management's Discussion information must be

Management's Discussion must be included in the prospectus delivered in connection with such a transaction, unless the prospectus is accompanied by an annual report to shareholders containing the Management's Discussion information.[31]

E. Date of Effectiveness

The Commission is staggering the date when the amendments adopted today will become effective to coincide, to the extent possible, with the annual updating of registration statements and the distribution of new annual reports to shareholders.

1. Prospectuses

The amendments to Form N–1A regarding (i) disclosure of portfolio managers, (ii) financial highlights, and (iii) Management's Discussion for those funds that elect to include a Management's Discussion in their prospectuses will become effective in the following manner. For funds whose registration statements become effective on or after July 1, 1993, or a series added by post-effective amendment that becomes effective on or after July 1, 1993, the revisions are effective for prospectuses used on or after that date. For funds with fiscal years ending on February 28, these revisions will become effective on July 1, 1993, as to prospectuses used on or after that date, the date on which their post-effective amendments ordinarily must become effective. For all other funds, today's revisions will become effective upon use of any prospectus contained in any post-effective amendment filed on July 1, 1993 or thereafter.[32]

2. Annual Reports

Funds that have included or intend to include a Management's Discussion in their annual reports must do so in any annual report first distributed to shareholders on or after July 1, 1993. Funds must use the new financial highlights in all annual reports distributed on or after July 1, 1993.

Funds should note, however, that, under Instruction 5(b) to new Item 5A, a newly registered fund (or series) will not have to include a Management's Discussion in the annual report unless the report contains audited financial statements covering a period of at least six months.[33]

II. Cost/Benefit Analysis

Several commenters raised concerns that the form and rule amendments as proposed could result in additional costs for funds which may be passed on to investors. The Commission has modified the amendments to reflect many of these concerns. The Commission has narrowed the scope of the item requiring identification of portfolio managers, which will, in turn, reduce the costs of updating; reduced the need to update information in annual reports; and simplified the narrative portion of the Management's Discussion. The Commission also considered the cost of satisfying the Management's Discussion requirements generally and concluded that significant expenses will not be incurred because the information required is readily available to funds and is of a type generally considered by a fund's board in connection with deciding whether to renew the advisory contract. Moreover, the Commission believes that the costs of the amendments adopted today are outweighed by the benefits to investors of receiving the additional disclosure.

III. Regulatory Flexibility Act Analysis

A summary of the Initial Regulatory Flexibility Analysis, which was prepared in accordance with 5 U.S.C. 603, was published in Investment Company Act Release No. 17294. No comments were received on this analysis. The Commission has prepared a Final Regulatory Flexibility Analysis, a copy of which may be obtained by contacting Martha H. Platt, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549.

IV. Text of Final Rule and Form Amendments

List of Subjects in 17 CFR Parts 239, 270, 274

Investment Companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission is amending chapter II, title 17 of the Code of Federal Regulations as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

1. The authority citation for part 239 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–29, 80a–30 and 80a–37, unless otherwise noted.

* * * * *

2. By revising paragraph (a) of Item 5 of Form N–14 in § 239.23 to read as follows:

Note: Form N–14 will not appear in the Code of Federal Regulations.

§ 239.23 Form N–14, for the registration of securities issued in business combination transactions by investment companies and business development companies.

Form N–14

* * * * *

Item 5. Information About the Registrant

* * * * *

(a) if the Registrant is an open-end management investment company, furnish the information required by Items 3, 4 (a) and (b), 5, 5A, 6 (a), (c), (d), (e), (f), and (g), and 7 through 9 of Form N–1A under the 1940 Act, *provided, however,* that the information required by Item 5A may be omitted if the prospectus is accompanied by an annual report to shareholders containing the information otherwise required by Item 5A;

* * * * *

PART 270—RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

3. The authority citation for part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39, unless otherwise noted;

* * * * *

4. By revising § 270.34b–1 to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

Any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a–24(b)] ("sales literature") shall have omitted to state a fact necessary in order to make the statements made therein not materially misleading unless the sales literature includes the information specified in paragraphs (a) and (b) of this section.

(a) Sales literature for a money market fund shall contain the information required by paragraph (a)(7) of § 230.482 of this chapter;

(b)(1) Except as provided in paragraph (b)(2) of this section, any sales literature

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provided for the acquiring fund and Item 6 (which cross-references Item 5) requires the Management's Discussion to be provided for the acquired fund.

[31] Although the Commission is not amending Form N–14 in any further respect, because Form N–14 cross-references items of Form N–1A, the adoption of amendments to Form N–1A revising the condensed financial information and requiring disclosure of portfolio managers will require the same additional disclosure in registration statements filed on Form N–14.

[32] These are the same effectiveness provisions that were used when Form N–1A was revised to require a fee table in mutual fund prospectuses. See Investment Company Act Rel. No. 16244 (Feb. 1, 1988) (53 FR 3192 (Feb. 4, 1988)).

[33] The Commission does not expect the information required by new Item 3(d) of Form N–1A to be included in the prospectus of a fund until the fund's annual report contains the new disclosures.

containing investment company performance data shall also include:

(i) The disclosure required by paragraph (a)(6) of § 230.482 of this chapter; and

(ii) The following additional performance data, which shall meet with the currentness requirements of paragraph (f) of § 230.482 of this chapter:

(A) Except in the case of a money market fund, the total return information required by paragraph (e)(3) of § 230.482 of this chapter;

(B) In the case of sales literature containing a quotation of yield or other similar quotation purporting to demonstrate the income earned or distributions made by the company, a quotation of current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter; and

(C) In the case of sales literature containing a quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent of income earned or distributions made by the company, a quotation of tax equivalent yield specified by paragraph (e)(2) and current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter.

(2) The requirements specified in paragraph (b)(1) of this section shall not apply to any quarterly, semi-annual or annual report to shareholders under section 30 of the Act [15 U.S.C. 80a–29], containing performance data for a period commencing no earlier than the first day of the period covered by the report.

Note: Sales literature (except that of a money market fund) containing a quotation of yield or tax equivalent yield must also contain the total return information. In the case of sales literature, the currentness provisions apply from the date of distribution and not the date of submission for publication.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

5. The authority citation for part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, unless otherwise noted.

* * * * *

§ 239.15A Form N–1A, registration statement of open-end management investment companies.

§ 274.11A Form N–1A, registration statement of open-end management investment companies.

Note: Form N–1A will not appear in the Code of Federal Regulations.

6. By revising paragraph 4 of General Instruction F of Form N–1A (§§ 239.15A and 274.11A) to read as follows:

Form N–1A

* * * * *

General Instructions

* * * * *

F. Documents Comprising Registration Statement or Amendment

* * * * *

4. A registration statement or an amendment thereto which is filed under only the 1940 Act shall consist of the facing sheet of the Form, responses to all items of Parts A and B except Items 1, 2, 3 and 5A of Part A thereof, responses to all Items of Part C except Items 24(b)(6), 24(b)(10), 24(b)(11), and 24(b)(12), required signatures, and all other documents which are required or which the Registrant may file as part of the registration statement.

* * * * *

7. By amending Item 3 of Form N–1A (§§ 239.15A and 274.11A) by revising paragraph (a) and by adding new paragraph (d) to read as follows:

Form N–1A

* * * * *

Item 3. Condensed Financial Information

(a) Furnish the following information for the Registrant, or for the Registrant and its subsidiaries, consolidated as prescribed in Rule 6–03 [17 CFR 210.6–03] of Regulation S–X.

Financial Highlights

(Introduction)

Net Asset Value, Beginning of Period
Income From Investment Operations
Net Investment Income
Net Gains or Losses on Securities (both realized and unrealized)
Total From Investment Operations
Less Distributions
Dividends (from net investment income)
Distributions (from capital gains)
Returns of Capital
Total Distributions
Net Asset Value, End of Period

Total Return

Ratios/Supplemental Data

Net Assets, End of Period
Ratio of Expenses to Average Net Assets
Ratio of Net Income to Average Net Assets
Portfolio Turnover Rate

Instructions:

General Instructions

1. Briefly explain the nature of the information contained in the table and its source. The auditor's report as to the financial highlights need not be included in the prospectus. Note that the auditor's report is contained elsewhere in the registration statement, specify its location, and state that it can be obtained by shareholders.

2. Present the information in comparative columnar form for each of the last ten fiscal years of the Registrant (or for the life of the Registrant and its immediate predecessors, if less) but only for periods subsequent to the effective date of Registrant's 1933 Act registration statement. In addition, present the information for the period between the end of the latest fiscal year and the date of the latest balance sheet or statement of assets and liabilities. Where the period for which the Registrant provides financial highlights is less than a full fiscal year, the ratios set forth in the table may be annualized, but the fact of this annualization must be disclosed in a note to the table.

3. List per share amounts at least to the nearest cent. If the offering price is expressed in tenths of a cent or more, then state the amounts in the table in tenths of a cent. Present the information using a consistent number of decimal places.

4. Make, and indicate in a note, appropriate adjustments to reflect any stock split or stock dividend during the period.

5. If the investment adviser has been changed during the period covered by this item, indicate the date(s) of the change(s) in a note.

6. The financial highlights for at least the latest five fiscal years must be audited and must so state.

Per Share Operating Performance

7. Derive net investment income data by adding (deducting) the increase (decrease) per share in undistributed net investment income for the period to (from) dividends from net investment income per share for the period. The increase (decrease) may be derived by comparing the per share figures obtained by dividing undistributed net investment income at the beginning and end of the period by the number of shares outstanding on those dates. Other methods may be acceptable, but should be explained briefly in a note to the table.

8. The amount shown at the Net Gains or Losses on Securities caption is the balancing figure derived from the other figures in the statement. The amount shown at this caption for a share outstanding throughout the year may not agree with the change in the aggregate gains and losses in the portfolio securities for the year because of the timing of sales and repurchases of Registrant's shares in relation to fluctuating market values for the portfolio.

9. For any distributions made from sources other than net investment income and capital gains, state the per share amounts thereof separately at the Returns of Capital caption and note the nature of the distributions.

10. In the Net Asset Value, End of Period caption, use the net asset value for the end of each period for which information is being provided.

Total Return

11. When calculating "total return"

(a) assume an initial investment made at the net asset value last calculated on the business day before the first day of each fiscal year;

(b) assume all dividends and distributions by the Registrant are reinvested at the price stated in the prospectus on the reinvestment dates during the year, *i.e.*, total return must reflect any sales load charged upon reinvestment of dividends;

(c) assume a redemption at the price last calculated on the last business day of each fiscal year;

(d) do not reflect sales loads or account fees, but if the Registrant charges sales load or account fees, note that they are not reflected in total return; and

(e) for a period less than a full fiscal year, annualize (but do not compound) the total return and disclose the annualization in a note to the table.

Ratios/Supplemental Data

12. Compute "average net assets" based on the value of the net assets determined no less frequently than the end of each month.

13. A Registrant (or a series of a Registrant) that is a money market fund may omit the portfolio turnover rate.

14. Compute the portfolio turnover rate as follows:

(a) divide (A) the lesser of purchases or sales of portfolio securities for the particular fiscal year by (B) the monthly average of the value of the portfolio securities owned by the Registrant during the fiscal year. Calculate the monthly average by totalling the values of portfolio securities as of the beginning and end of the first month of the fiscal year and as of the end of each of the succeeding eleven months and dividing the sum by 13;

(b) exclude from both the numerator and the denominator all securities, including options, whose maturities or expiration dates at the time of acquisition were one year or less. Include all long-term securities, including long-term U.S. Government securities. Purchases include any cash paid upon the conversion of one portfolio security into another and the cost of rights or warrants. Sales include net proceeds of the sale of rights or warrants and net proceeds of portfolio securities that have been called or for which payment has been made through redemption or maturity;

(c) if during the fiscal year the Registrant acquired the assets of another investment company or of a personal holding company in exchange for its own shares, exclude from purchases the value of securities so acquired, and, from sales, all sales of such securities made following a purchase-of-assets transaction to realign the Registrant's portfolio. Appropriately adjust the denominator of the portfolio turnover computation, and disclose the exclusions and adjustments; and

(d) include in purchases and sales any short sales that the Registrant intends to maintain for more than one year and put and call options with expiration dates more than one year from the date of acquisition. Include proceeds from a short sale in the value of the portfolio securities sold during the period; include the cost of covering a short sale in the value of portfolio securities purchased during the period. Include premiums paid to purchase options in the value of portfolio securities purchased during the reporting period; include premiums received from the sale of options in the value of the portfolio securities sold during the period.

* * * * *

(d) If the information called for by Item 5A is not included in the prospectus, disclose that further information about the performance of the Registrant is contained in the Registrant's annual report to shareholders which may be obtained without charge.

* * * * *

8. By redesignating current paragraphs (c), (d), (e), and (f) of Item 5 of Form N–1A (§§ 239.15A and 274.11A) as paragraphs (d), (e), (f), and (g), and adding a new paragraph (c) and Item 5A to read as follows:

Form N–1A

* * * * *

Item 5. Management of the Fund

* * * * *

(c) Disclose the name and title of the person or persons employed by or associated with the Registrant's investment adviser (or the Registrant) who are primarily responsible for the day-to-day management of the fund's portfolio and disclose the length of time that each person has been primarily responsible and each person's business experience during the past five years.

Instructions

1. In responding to this item, it is sufficient to provide information about the person (or persons) who serves as the Registrant's portfolio manager, whether or not subject to the oversight, approval or ratification of a committee.

2. In the event that the organizational arrangements of the investment adviser (or the Registrant, if internally managed) require that all investment decisions be made by a committee, and no person(s) is primarily responsible for making recommendations to that committee, the Registrant may state that fact in lieu of identifying the committee members.

3. Registrants that are money market funds or whose investment objectives involve replicating the performance of an index are not required to respond to this item.

* * * * *

Item 5A. Management's Discussion of Fund Performance

For all registrants other than money market funds, unless the information called for by this item is contained in the annual report of the Registrant:

(a) Briefly discuss those factors, including the relevant market conditions and the investment strategies and techniques pursued by the Registrant's investment adviser, that materially affected the performance of the Registrant during the most recently completed fiscal year.

(b) Provide a line graph comparing the initial account value and subsequent account values at the end of each of the most recently completed ten fiscal years of the Registrant, assuming a $10,000 investment in the Registrant at the beginning of the first fiscal year, to the same investment over the same periods in an appropriate broad-based securities market index. In a table placed within or contiguous to the graph, provide the company's average annual total returns for the one, five, and ten year periods ended on the last day of the most recent fiscal year computed in accordance with Item 22(b)(i). Accompany the graph with a statement that past performance is not predictive of future performance.

Instructions

In preparing the line graph comparison:

1. *Computation:*

(a) Assume that the initial investment was made at the public offering price last calculated on the business day before the first day of the first fiscal year.

(b) Base subsequent account values on the net asset value of the Registrant last calculated on the last business day of the first and each subsequent fiscal year.

(c) Calculate the final account value by assuming the account was closed and redemption was at the price last calculated on the last business day of the most recent fiscal year.

(d) If the Registrant requires a minimum initial investment of more than $10,000, base the line graph on initial investment of the minimum amount.

2. *Sales Load.* Reflect sales load (or any other fees charged at the time of purchasing shares or opening an account) by beginning the line graph at the amount that actually would be invested, *i.e.*, a dollar amount below $10,000. Assume that the maximum sales load (and other charges deducted from payments) is deducted from the initial $10,000 investment. In the case of a Registrant that charges a deferred sales load (or other amounts at redemption or upon closing of an account), assume the deduction of the maximum deferred sales load (or other charges) that would be applicable for a complete redemption that received the price last calculated on the last business day of the most recent fiscal year.

3. *Dividends and Distributions.* Assume all dividends and distributions by the Registrant are reinvested at the price stated in the prospectus on the reinvestment dates during the period, *i.e.*, total return must reflect any sales load charged upon reinvestment of dividends and/or distributions.

4. *Account Fees.* Reflect all recurring fees that are charged to all accounts.

(a) For any account fees that vary with the size of the account, assume a $10,000 account size.

(b) If recurring fees charged to shareholder accounts are paid other than by redemption of fund shares, they should be appropriately reflected.

(c) In the case of a series company, reflect an annual account fee by allocating the fee among the series in the following manner: Divide the total amount of account fees collected during the year by the total average net assets of the series, multiply the resulting percentage by the average account value for each series and reduce the value of each hypothetical account at the end of each fiscal year during which the account fee was charged.

5. *New Registrants.*

(a) A new Registrant (or a new series) is not required to include the information specified by this item in its prospectus (or, in the case of a Registrant that opts to include the information in the annual report, its annual report) unless the Statement of Additional Information (or annual report) contains audited financial statements covering a period of at least six months.

(b) If the Registrant's registration statement under the Securities Act of 1933 has not been effective (or, in the case of a series, the Registrant has not offered shares of the series to the public) for all of the ten year periods, begin the line graph either on (a) the date the registration statement became effective (or the Registrant began to offer shares of the series), or (b) the date the Registrant (or series) commenced operations, *i.e.*, began to invest its assets in accordance with its investment objectives, provided such date is subsequent to the date the Registrant's registration statement became effective.

6. *New Advisers.* If the Registrant has not had the same investment adviser during the previous ten fiscal year periods, the Registrant may begin the line graph on the date the current adviser began to provide advisory services to the fund, provided that (a) neither the current adviser nor any affiliate is or has been in "control" of the previous adviser as that term is defined in Section 2(a)(9) of the Investment Company Act (15 U.S.C. 80a–2(a)(9)); (b) the current adviser employs no officer of the previous adviser or employees of the previous adviser who were responsible for providing investment advisory or portfolio management services to the company; and (c) the graph is accompanied by a statement explaining that previous periods during which the fund was advised by another investment adviser are not shown.

7. *Appropriate Index.* For purposes of this item, an "appropriate broad-based securities market index" must be one that is administered by an organization that is not an affiliated person of the Registrant, its investment adviser or principal underwriter, unless the index is widely recognized and used. The securities index must be adjusted to reflect reinvestment of dividends on securities in the index, but not the expenses of the Registrant.

8. *Use of Additional Indexes.* In addition to the required comparison to a broad-based index, registrants are urged to compare their performance to other more narrowly-based indexes which reflect the market sectors in which they invest. In addition, a registrant may compare its performance to an additional broad-based index, or to a non-securities index, *e.g.*, the Consumer Price Index, provided that the comparison is not set forth in a misleading manner.

9. *Other Periods.* The line graph may cover earlier fiscal years and may compare the ending values of interim periods, e.g., monthly or quarterly ending values, provided that those periods are subsequent to the effective date of the Registrant's registration statement under the 1933 Act.

10. *Scale.* The axis of the graph measuring dollar amounts may be constructed using either a linear or logarithmic scale.

11. *Series Companies.* Treat each series as a separate Registrant for purpose of this item.

12. *New Indexes.* If the Registrant selects a different index from an index used in the line graph for the immediately preceding fiscal year, explain the reason(s) for the change and also compare the Registrant's annual change in the value of an investment in a hypothetical shareholder account with that of both the newly selected index and the index used in the line graph for the immediately preceding fiscal year.

(c) Discuss the impact that any policy or practice as to the maintenance of a specified level of distributions to shareholders had on investment strategies of the company and per share net asset value during the company's last fiscal year.

Instruction

In responding to Item 5A(c), discuss the extent to which its distribution policy resulted in distributions of capital.

9. By amending Item 32 of Form N–1A (§§ 239.15A and 274.11A) by adding paragraph (c) to read as follows:

Form N–1A

* * * * *

Item 32. Undertakings

* * * * *

(c) if the information called for by Item 5A is contained in the latest annual report to shareholders, an undertaking to furnish each person to whom a prospectus is delivered with a copy of the Registrant's latest annual report to shareholders, upon request and without charge.

* * * * *

Dated: April 6, 1993.

By the Commission.

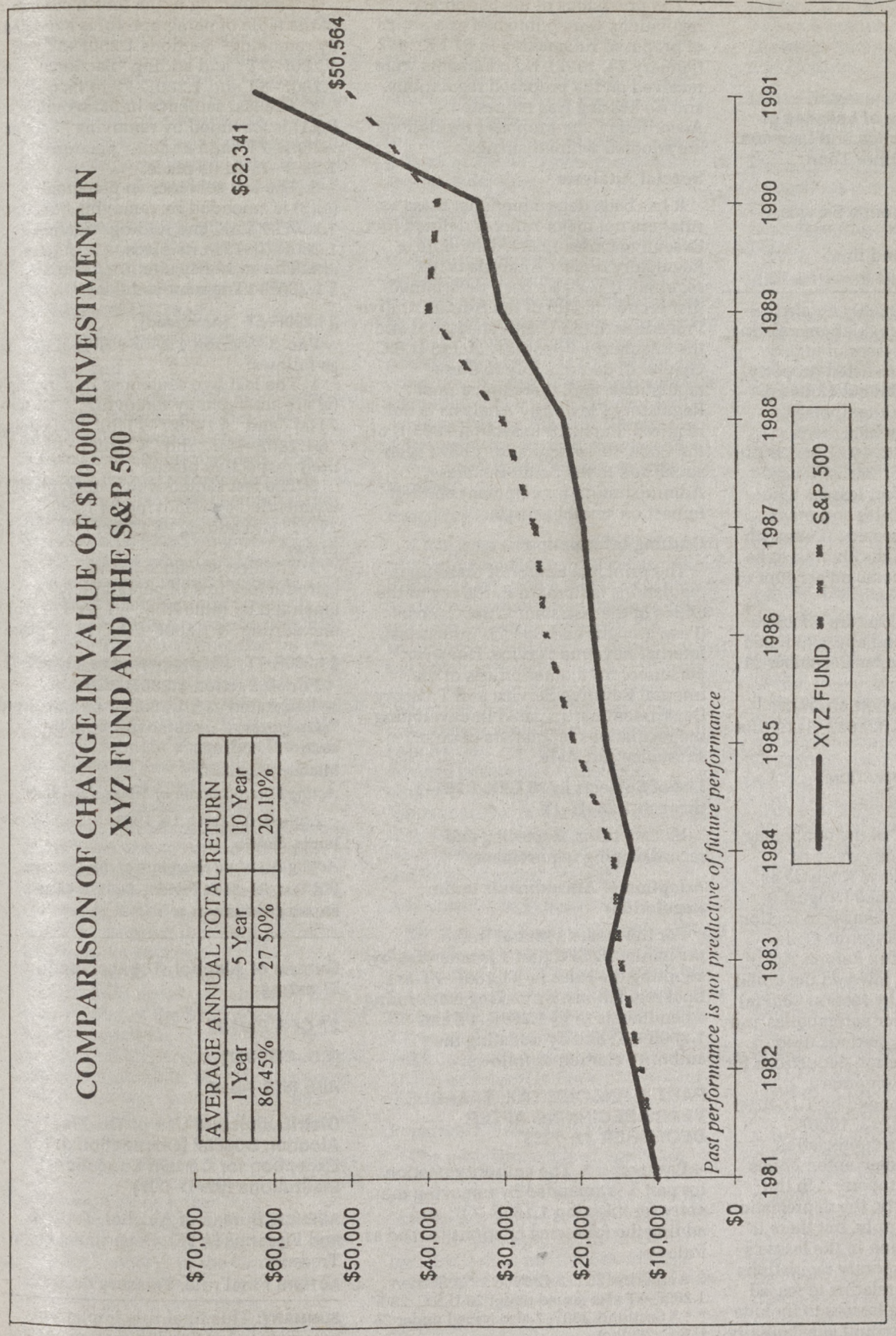
Margaret H. McFarland,

Deputy Secretary.

Note: The appendix will not appear in the Code of Federal Regulations.

BILLING CODE 8010–01–P

APPENDIX



[FR Doc. 93–8454 Filed 4–8–93; 8:45 am]
BILLING CODE 8010–01–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8473]

RIN 1545–AO04

Inclusions in Income of Lessees of Passenger Automobiles and Lessees of Listed Property Other Than Automobiles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations relating to the treatment of lessees of luxury automobiles and other listed property. The rules in the final regulations are currently contained in temporary regulations, parts of which were published on April 12, 1990, and expire within three years of their issuance. These regulations affect lessees who lease luxury automobiles and other listed property and provide them with guidance concerning the amount to be included in gross income on account of the lease.

DATES: These regulations are effective on January 1, 1987, and apply to listed property first leased after December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Bernard P. Harvey, (202) 622–3110 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 1.280F–7T of the temporary Income Tax Regulations was first published in the **Federal Register** as T.D. 8218 in 53 FR 29880 (August 9, 1988) in response to changes to section 280F of the Internal Revenue Code (Code) made by the Tax Reform Act of 1986. These changes lowered the dollar limitations imposed by section 280F(a) on the depreciation for automobiles and changed the recovery periods used in determining depreciation deductions for listed property. The temporary regulations were amended by T.D. 8298 in 55 FR 13808 (April 12, 1990).

Section 280F limits depreciation deductions for passenger automobiles and certain "listed property." In the case of leased property, the depreciation limitation does not apply, but there is an equivalent reduction in the lessee's tax benefits. The temporary regulations implement the rules relating to leased property by requiring lessees to include in gross income an amount substantially equivalent to the limitation on depreciation and providing rules for computing this amount.

The provisions of the temporary regulations were published as a notice of proposed rulemaking in 57 FR 2862 (January 24, 1992). No comments were received on the proposed regulations, and no hearing was requested. Accordingly, the proposed regulations are adopted without change.

Special Analyses

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

Drafting Information

The principal author of these final regulations is Bernard P. Harvey of the Office of the Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR 1.261–1 through 1.280H–1T

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

For the reasons set out in the preamble, 26 CFR part 1 is amended by adopting the rules in § 1.280F–7T as final regulations, by making conforming amendments to §§ 1.280F–1T and 1.280F–5T, and by updating the authority citation as follows:

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

Paragraph 1. The authority citation for part 1 is amended by removing the entry for "Section 1.280F–7T" and adding the following citations to read as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.280F–1T also issued under 26 U.S.C. 280F. * * * Section 1.280F–7 also issued under 26 U.S.C. 280F(c).

§ 1.280F–1T [Amended]

Par. 2. Section 1.280F–1T is amended as follows:

1. The heading in the fourth column of the table of paragraph (b) is amended by removing "Sections 1.280F–5T and 1.280F–7T" and adding "Sections 1.280F–5T and 1.280F–7" in its place.

2. The last sentence in paragraph (c)(1) is amended by removing "Section 1.280F–7T" and adding "Section 1.280F–7" in its place.

3. The last sentence in paragraph (c)(3) is amended by removing "Section 1.280F–7T(a)" and adding "Section 1.280F–7(a)" in its place.

4. The authority citation following § 1.280F–1T is removed.

§ 1.280F–5T [Amended]

Par. 3. Section 1.280F–5T is amended as follows:

1. The last two sentences in paragraph (a) are amended by removing "§ 1.280F–7T(a)" and "§ 1.280F–7T(b)" and adding "§ 1.280F–7(a)" and "§ 1.280F–7(b)", in their respective places.

2. The last sentence in paragraph (f)(1) is amended by removing "§ 1.280F–7T(b)" and adding "§ 1.280F–7(b)" in its place.

3. The first sentence in the introductory text of paragraph (g) is amended by removing "§ 1.280F–7T(b)" and adding "§ 1.280F–7(b)" in its place.

§ 1.280F–7T [Redesignated as § 1.280F–7]

Par. 4. Section 1.280F–7T is redesignated as § 1.280F–7 and the word "(temporary)" is removed from the section heading.

Michael P. Dolan,

Acting Commissioner of Internal Revenue.

Approved: March 19, 1993.

James Fields,

Acting Assistant Secretary of the Treasury

[FR Doc. 93–8464 Filed 4–9–93; 8:45 am]

BILLING CODE 4380–04–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 22

[T.D. ATF–337]

RIN: 1512–AB15

Distribution and Use of Tax Free Alcohol: Special (Occupational) Tax Exception for Certain Educational Institutions (92–D–007)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule implements provisions contained in section 7816(o)

of the Omnibus Budget Reconciliation Act of 1989. These provisions amended the Technical and Miscellaneous Revenue Act of 1988 by providing an exception from paying special (occupational) tax to certain educational institutions which procure less than 25 gallons of distilled spirits free of tax for experimental or research use.

EFFECTIVE DATE: Amendments made by this Treasury decision to regulations in 27 CFR part 22 are made retroactive to July 1, 1989.

FOR FURTHER INFORMATION CONTACT: Mary Lou Blake, (202) 927–8210, Distilled Spirits and Tobacco Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226.

SUPPLEMENTARY INFORMATION:

Background

Special (occupational) tax is imposed under the Internal Revenue Code of 1986 (IRC) on persons engaged in certain specified occupations. The Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) amended the IRC by increasing the tax on these persons and by imposing new special tax on persons who did not previously have to pay special tax including persons holding permits under 26 U.S.C. 5271. The provisions of Public Law 100–203 concerning special tax became effective January 1, 1988.

Congress later amended the IRC to exempt certain taxpayers from having to pay special tax. These changes to the IRC were brought about by passage of the Technical and Miscellaneous Revenue Act of 1988.

One of the changes made by the Technical and Miscellaneous Revenue Act of 1988 was to amend 26 U.S.C. 5276 to exempt, under certain circumstances, scientific universities, colleges of learning, or institutions of scientific research that hold permits issued under section 5271(a)(2) (authorizing them to procure, deal in, or use specially denatured alcohol), from the payment of the $250 per year special (occupational) tax that is currently imposed on all persons holding permits under section 5271. Specifically, these institutions were exempt from the payment of special tax if they procured less than 25 gallons of specially denatured alcohol in any calendar year for experimental or research use but not for consumption (other than organoleptic tests) or sale. This provision was effective on July 1, 1989.

In Section 7816 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. No. 101–239), amendments were made to extend the exception to those educational institutions that hold permits and procure less than 25 gallons of tax free distilled spirits (rather than just specially denatured alcohol) in a calendar year. This provision was made retroactive to July 1, 1989, the same effective date as the Technical and Miscellaneous Revenue Act of 1988 which exempted from the payment of special (occupational) tax those institutions that procured less than 25 gallons of specially denatured alcohol in any calendar year.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. A copy of this final rule was submitted to the Chief Counsel for Advocacy of the Small Business Administration in accordance with 26 U.S.C. 7805(f). No comments were received.

Executive Order 12291

It has been determined that this final rule is not a major regulation as defined in E.O. 12291, and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Administrative Procedure Act

Because this final rule merely reflects a specific statutory exception for the payment of special (occupational) tax for certain educational institutions, it is found to be unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation in 5 U.S.C. 553(d).

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law No. 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because it does not impose any new reporting requirements. This final rule eliminates the payment of special (occupational) tax for certain educational institutions.

Drafting Information

The principal author of this document is Mary Lou Blake, Distilled Spirits and Tobacco Branch, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 22

Administrative practice and procedure, Advertising, Alcohol and alcoholic beverages, Authority delegations (Government agencies), Claims, Excise taxes, Reporting and recordkeeping requirements, Surety bonds.

Authority and Issuance

PART 22—DISTRIBUTION AND USE OF TAX FREE ALCOHOL

Paragraph 1. The authority citation for part 22 continues to read as follows:

Authority: 26 U.S.C. 5001, 5121, 5142, 5143, 5146, 5206, 5214, 5271–5276, 5311, 5552, 5555, 6056, 6061, 6065, 6109, 6151, 6806, 7011, 7805; 31 U.S.C. 9304, 9306.

Par. 2. Section 22.37 is amended by revising the first sentence of paragraph (a) and by adding new paragraphs (d) and (e), to read as follows:

§ 22.37 Liability for special tax.

(a) *Tax-free alcohol permittee.* Except as otherwise provided in this section, every person who is required to hold a permit under 26 U.S.C. 5271 to procure, use, sell, and/or recover alcohol free of tax for nonbeverage purposes shall pay a special (occupational) tax at the rate of $250 per year. * * *

* * * * * *

(d) *Exception for United States.* Agencies and instrumentalities of the United States are not required to pay special tax under this subpart.

(e) *Exception for certain educational institutions.* (1) On and after July 1, 1989, a scientific university, college of learning, or institution of scientific research as specified in § 22.104, which holds a permit to procure and use distilled spirits free of tax under this part, is not required to pay special tax under this subpart if—

(i) The university, college, or institution procures less than 25 gallons of tax free spirits per calendar year; and

(ii) Such spirits are procured for use exclusively for experimental or research use and not for consumption (other than organoleptic tests) or sale.

(2) A scientific university, college of learning, or institution of scientific research, which holds a permit under this part, and which does not operate as described in paragraphs (e)(1) (i) and (ii) of this section during any calendar year, shall pay special tax as provided in

paragraph (a) of this section for the special tax year (July 1 through June 30) commencing during that calendar year.

(26 U.S.C. 5143, 5276)

Signed: March 16, 1993.

Stephen E. Higgins,

Director.

Approved: March 22, 1993.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 93–8421 Filed 4–9–93; 8:45 am]

BILLING CODE 4810–31–U

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27 CFR Part 24

[T.D. ATF–338; Re: Notice No. 746]

Change in the Frequency of Filing Reports of Bonded Wine Premises Operations and Wine Excise Tax Returns (92F030P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule amends the wine regulations to allow certain bonded wine premises proprietors to file reports annually instead of monthly and allow certain bonded wine premises proprietors who pay less than $1000 annually in wine excise tax to file tax returns and pay such tax annually instead of semimonthly.

EFFECTIVE DATE: May 12, 1993.

FOR FURTHER INFORMATION CONTACT: James A. Hunt and Marjorie Ruhf, Wine and Beer Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1992, as part of a regulatory review, ATF published Notice No. 746 (57 FR 33467), proposing changes to the wine regulations to: (1) Allow certain wine premises proprietors whose inventory, receipts and production activities do not total more than 20,000 gallons per month to file their reports of bonded wine premises operations annually instead of monthly and (2) allow certain bonded wine premises proprietors who pay less than $1000 annually in wine excise tax to pay such tax annually instead of semimonthly.

ATF received only one comment on this proposal. The comment, which supported the proposal, was from Duncan Peak Vineyards, Hopland, California. Additionally, a commentary supporting the proposal appeared in the "Wise and Otherwise" column of the September, 1992, issue of Wines & Vines.

The final rule adopts the regulation as proposed, with a few clarifying changes. The final rule makes clear that the "annual" filing of reports means filing on a calendar year basis, gives more detail on the bond coverage changes, and clarifies the criteria for filing the report on an annual basis. ATF also inserted effective dates where appropriate.

Report of Bonded Wine Premises Operations, ATF F 5120.17

Currently, the Monthly Report of Wine Cellar Operations must be filed on a monthly basis by all bonded wine premises proprietors. The only exception is that proprietors of bonded wine premises who do not expect to have any inventory change or reportable operation in a subsequent month or months can file a statement to that effect and be exempt from filing a monthly report of bonded wine premises operations until the next change in inventory or reportable operation.

Under the new regulations, a bonded wine premises proprietor may submit the report of operations on a calendar year basis rather than monthly if the proprietor is exempt from filing semimonthly tax returns under § 24.273 and the sum of the proprietor's monthly report columns representing the opening inventories of bulk and bottled wines in all tax classes, and all operations increasing the amounts to be accounted for during the month, such as production, receipt in bond, and bottling did not exceed 20,000 gallons in any month during the previous calendar year. Also, a proprietor who expects to meet these criteria during the current calendar year may file the reports on a calendar year basis, rather than monthly. For purposes of computation, these operations are represented by the sum of all columns in section A line 12 and section B line 7 in part I of the current report form. While the proposed regulation included only the gallonage criterion, ATF has included a tax payment criterion in the final regulation that also must be met in order for the proprietor to be eligible to file the report on an annual basis. The tax payment criterion is necessary to protect the revenue. Even though a proprietor may have a small quantity of reportable activities the proprietor (such as a sparkling wine producer) may still make substantial tax payments. The filing of the report on a monthly basis by such proprietor is necessary in order for ATF to audit timely the semimonthly returns filed by the proprietor.

To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and who expects to meet these criteria may use a letter notice to the regional director (compliance), and file ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the 20,000 gallon quantity will be exceeded in any month, or that the wine excise tax liability (including any amounts paid or owed) equals $1,000 or more for the current calendar year, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. However, if there is a jeopardy to the revenue, the regional director (compliance) may require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly.

ATF also revised the inventory requirements in the final rule to show that proprietors filing calendar year reports should take inventory at the close of the calendar year, so that the physical and "book" inventories may be reconciled.

This final rule also contains conforming changes to the regulations which refer to the report form title and to the monthly reporting requirement.

ATF reminds proprietors that all requirements for retaining and summarizing source records contained in 27 CFR part 24, subpart O, Records and Reports, remain the same. Failure to keep the required records could result in assessment of tax on unexplained losses, administrative actions for recordkeeping violations, or invalidation of a proprietor's label claims. Vintage date, varietal designation or other claims must be supported by adequate source records; if the records are not available, the proprietor may be required to relabel products to remove unsubstantiated claims from the label.

Increasing the Wine Excise Tax Amount To Qualify for Filing Annual Tax Returns to $1,000

Currently, bonded wine premises proprietors are required to file tax returns and pay wine excise tax semimonthly, except that certain winery proprietors may file tax returns and pay such tax on a calendar year basis instead of semimonthly. In order to qualify for this exception, the proprietor must have paid less than $500 in wine excise tax for the previous calendar year, and the

anticipated wine excise tax liability must be less than $500 for the current year.

As proposed, ATF is amending the regulations to authorize the filing of annual tax returns, with payment, by a proprietor whose excise tax liability does not exceed $1,000 for the calendar year. This will allow approximately 100 more wine premises proprietors to start filing annual tax returns and about another 100 small winery proprietors will not have to be concerned about reaching their $500 (but not more than $1,000) per year wine excise tax limit and being required to file semimonthly tax returns.

Under the current regulations, up to $500 in excise tax which has been determined but not paid is already covered by the wine operations bond. This amount was increased from $100 when the wine regulations were recodified in 1990. As proposed, ATF is amending the regulations to allow up to $1,000 of the wine bond to be designated as coverage for wine on which tax has been determined but not paid in order to allow this new filing option. The wine bond will be revised to reflect this change. Proprietors should be aware that this amendment of the regulations to increase the dollar amount of the wine bond available for wine removed from bonded wine premises on which the tax was determined but not paid does not automatically raise this limit on existing bonds. In order to obtain this additional coverage, the proprietor must procure a new bond or a consent of surety expressly providing for the $1,000 amount. For example, some proprietors still have wine bonds showing a $100 amount, while other proprietors' bonds show $500. For either of these proprietors to use the new option of making a single annual taxpayment of up to $1,000, such proprietor must obtain a new bond or consent of surety providing for the $1,000 coverage. Otherwise the proprietor must pay the tax when its liability reaches the limit of its coverage for wine removed but not taxpaid. That amount will be $100 or $500, depending on the existing bond terms. The wording of the bond regulations is revised in this final rule to show that a proprietor may only designate $1,000 of the operations coverage for this purpose if the total penal sum of the bond is $2,000 or more.

Modification of Forms

The Monthly Report of Wine Cellar Operations (ATF F 5120.17) will be revised. These revisions will include a new title, Report of Wine Cellar Operations, new instructions for filing either monthly or annually, and updated references to the regulations. Titles will be added to blank rows and columns for activities which must currently be written in each month by the proprietor. Finally, Part II, Summary of Domestic Wines in Taxpaid Rooms, will be eliminated. When the revised form is printed, copies will be distributed to each wine premises proprietor, and the existing form will become obsolete. Proprietors should continue using the existing form until the new supply is received.

The Wine Bond (ATF F 5120.36) will be revised to allow proprietors to elect additional coverage of removals under the operations portion of the bond, so that they may take advantage of annual filing of returns. Bonds written on the current version of the form will remain in effect until terminated by action of the surety or principal. If a proprietor wishes to increase coverage of removals before the new form is available, or without superseding an existing bond, ATF F 1533 (5000.18), Consent of Surety, may be used.

Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this document does not constitute a "major rule" since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this rule because it will not have a significant economic impact on a substantial number of small entities. As discussed elsewhere in this preamble, this final rule will reduce the reporting burden on certain small proprietors and will not: (1) impose, or otherwise cause, any increase in recordkeeping or other compliance burdens on small entities, or (2) have significant secondary or incidental effects on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law No. 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because it does not impose any new reporting requirements. This rule will eliminate some of the reporting and filing requirements applicable to certain bonded wine premises proprietors.

Drafting Information

The principal authors of this document are James A. Hunt and Marjorie Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic Fund Transfers, Excise Taxes, Exports, Food Additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling houses, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 24—Wine, is amended as follows:

PART 24—WINE

Paragraph 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111–5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364–5373, 5381–5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.65(b) introductory text is amended by revising the third sentence to read as follows:

§ 24.65 Claims for wine or spirits lost or destroyed in bond.

* * * * *

(b) * * * Any other claim for allowance of loss will be attached to and submitted with the ATF F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period in which the inventory required by § 24.313 is taken or, in the case of discontinuance of the premises or

change in proprietorship, to the final report filed. * * *

* * * * *

Par. 3. Sections 24.75(f) and 24.136(d) and the undesignated paragraph following § 24.140(b)(3) are amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

Par. 4. Section 24.146, is amended by revising the last sentence of paragraph (a) and by adding a sentence between the first and second sentences of paragraph (b) to read as follows:

§ 24.146 Bonds.

(a) *Wine bond.* * * * This bond has a tax obligation limit of $500 for wine removed from bonded wine premises on which the tax has been determined, but not paid, unless the total penal sum of the operations bond is $2,000 or more and the proprietor and the surety designate $1,000 of this amount as the obligation limit for wine on which the tax has been determined, but not paid.

(b) *Tax deferral bond.* * * * Under the conditions provided in paragraph (a) of this section, this amount may be changed to $1,000 by the terms of the bond or through a consent of surety between the proprietor and the surety. * * *

* * * * *

Par. 5. Section 24.148 is amended by revising the chart to read as follows:

§ 24.148 Penal sums of bonds

* * * * *

Bond	Basis	Penal sum	
		Minimum	Maximum
(a) Wine Bond, AFT F 5120.36.	(1) Not less than the tax on all wine or spirits in transit or unaccounted for at any one time.	$1,000	$50,000
	Where such liability exceeds $250,000	.....	100,000
	(2) Where the unpaid tax amounts to more than $500, not less than the amount of tax which, at any one time, has been determined but not paid. *Except:* $1,000 of the wine operations coverage may be allocated to cover the amount of tax which, at any one time, has been determined but not paid, if the total operations coverage is $2,000 or more.	500	250,000
(b) Wine Vinegar Plant Bond* ATF F 5510.2.	Not less than the tax on all wine on hand, in transit, or unaccounted for at any one time.	1,000	100,000

*The proprietor of a bonded wine premises who operates an adjacent or contiguous wine vinegar plant with a Wine Bond which does not cover the operation may file a consent of surety to extend the terms of the Wine Bond in lieu of filing a wine vinegar plant bond.

Par. 6. Section 24.176 is amended by revising paragraph (b) to read as follows:

§ 24.176 Crushing and fermentation.

* * * * *

(b) *Determination of wine produced.* Upon completion of fermentation or removal from the fermenter, the volume of wine will be accurately determined, recorded and reported on ATF F 5120.17, Report of Bonded Wine Premises Operations, as wine produced. Any wine or juice remaining in fermentation tanks at the end of the reporting period will be recorded and reported on ATF F 5120.17.

Par. 7. Section 24.197 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.197 Production by fermentation.

* * * The quantity of liquid in fermenters at the close of each reporting period will be reported on the ATF F 5120.17, Report of Bonded Wine Premises Operations. * * *

* * * * *

§ 24.237 [Amended]

Par. 8. Section 24.237 is amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

§ 24.268 [Amended]

Par. 9. Section 24.268 is amended by removing the word "month" and adding, in its place, the words "reporting period".

Par. 10. Section 24.273 is amended by revising paragraph (a) to read as follows:

§ 24.273 Exception to filing semimonthly tax returns.

(a) Any proprietor who has not given a bond for deferred payment of wine excise tax and who:

(1) Paid wine excise taxes in an amount less than $1000 ($500 prior to May 12, 1993, during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than $1000 ($500 prior to May 12, 1993, in wine excise taxes before the end of the calendar year, may file the Excise Tax Return, ATF F 5000.24, and remittance, within 30 days after the end of the calendar year instead of semimonthly as required by § 24.271. However, if before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals $1000 or more, the proprietor will commence semimonthly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

* * * * *

Par. 11. Section 24.275 is amended by revising paragraph (a)(2) and the first sentence of paragraph (a)(3) to read as follows:

§ 24.275 Prepayment of tax.

(a) * * *

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which

tax has been determined but not paid.
* * *
* * * * *

§§ 24.292 and 24.293 [Amended]

Par. 12. Sections 24.292(b) and 24.293(b) are amended by removing the words "Monthly Report of Wine Cellar Operations, for the month" and adding, in their place, the words "Report of Bonded Wine Premises Operations for the reporting period".

§ 24.294 [Amended]

Par. 13. Section 24.294(b) is amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

§ 24.295 [Amended]

Par. 14. Section 24.295(b) is amended by removing the words "Monthly Report of Wine Cellar Operations, for the month" and adding, in their place, the words "Report of Bonded Wine Premises Operations for the reporting period".

Par. 15. Section 24.300 is amended by revising the last sentence of paragraph (b) and by revising paragraph (g) to read as follows:

§ 24.300 General.
* * * * *

(b) * * * Source records and supplemental or auxiliary records may be used as a record of an operation or transaction and to prepare the ATF F 5120.17, Report of Bonded Wine Premises Operations, provided the record will readily allow for verification of an operation or transaction by ATF officers.
* * * * *

(g) *ATF F 5120.17, Report of Bonded Wine Premises Operations.* A proprietor who conducts bonded wine premises operations will summarize transaction entries and submit an ATF F 5120.17 to the regional director (compliance) on a monthly basis, except that:

(1) A proprietor who files a monthly ATF F 5120.17 and does not expect an inventory change or any reportable operations to be conducted in a subsequent month or months, may attach a statement to the ATF F 5120.17 filed that, until a change in the inventory or a reportable operation occurs, an ATF F 5120.17 will not be filed.

(2) A proprietor may file ATF F 5120.17 reports on a calendar year basis if (i) The proprietor expects to be exempt from filing semimonthly returns under § 24.273 for the calendar year and (ii) The sum of the bulk and bottled wine to be accounted for in all tax classes is not expected to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for. To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the regional director (compliance), and file an annual ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the wine excise tax liability for the current year will exceed $1,000 or that the 20,000 gallon activity level will be exceeded in any month, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the regional director (compliance) may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly. The information reported on the ATF F 5120.17 will be maintained in accordance with the requirements of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5555))
* * * * *

Par. 16. Section 24.303 is amended by revising paragraph (d) to read as follows:

§ 24.303 Formula wine record.
* * * * *

(d) The volume produced and the gain or loss resulting from the production of each lot as determined by comparing the volume finished with the volume used (report the total loss or gain on the ATF F 5120.17 for the period in question);
* * * * *

Par. 17. Section 24.313 is amended by revising the first four sentences of the introductory text to read as follows:

§ 24.313 Inventory record.

A proprietor who files monthly reports shall prepare a record of the physical inventory of all wine and spirits in storage at the close of business for each tax year, or where a different cycle has been established, the inventory will be taken at the end of that annual period. Such proprietors may use an annual inventory period different from the period beginning July 1 and ending June 30 by submitting a notice to the regional director (compliance). Proprietors who file reports on a calendar year basis under the provisions of § 24.300(g) of this part shall take the physical inventory at the close of the calendar year. The inventory record will be retained on file with the proprietor's ATF F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period when the inventory was taken. If a proprietor who files monthly reports takes a complete inventory at other times during the year, losses disclosed will be reported on the ATF F 5120.17 and the inventory record will be maintained on file with the report for each month when an inventory was taken. * * *
* * * * *

Par. 18. Section 24.316 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.316 Spirits record.

* * * The proof gallons of spirits received, used, removed from bonded wine premises, and on hand will be summarized and the account balanced at the end of each reporting period and reported on the ATF F 5120.17. * * *
* * * * *

Par. 19. Section 24.317 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.317 Sugar record.

* * * At the close of each reporting period, the account will be balanced and the quantity of each kind of sugar remaining on hand will be shown.
* * *
* * * * *

Signed: March 12, 1993.

Stephen E. Higgins,

Director.

Approved: March 19, 1993.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 93–8420 Filed 4–9–93; 8:45 am]

BILLING CODE 4810–31–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4-1-5305; FRL-4562-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Group III CTG; RACT for VOC Emissions From Petroleum Solvent Dry Cleaning Facilities in Philadelphia, PA

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Resources (PADER), at the request of the Philadelphia Air Management Service (AMS) to revise the Southeastern Pennsylvania (Philadelphia) portion of its Ozone SIP. This revision establishes reasonably available control technology (RACT) measures to reduce volatile organic compound (VOC) emissions from petroleum solvent dry cleaning facilities. The intended effect of this action is to approve a VOC RACT regulation adopted by Philadelphia AMS to fulfill commitments made in the Pennsylvania SIP in accordance with section 110 and Part D of the Clean Air Act Amendments (CAAA) of 1990.

EFFECTIVE DATE: This rule will become effective on May 12, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U. S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Commonwealth of Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2357, Executive House—2nd & Chestnut Streets, Harrisburg, PA 17105; and the City of Philadelphia, Department of Public Health, Air Management Services, 321 University Avenue, Spelman Building, Philadelphia, PA 19104.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Lewis, 3AT13, at the above listed EPA Region III address. Phone (215) 597-6863.

SUPPLEMENTARY INFORMATION: On February 23, 1987, at the request of Philadelphia AMS, the PADER submitted revisions which would amend the Philadelphia portion of the Pennsylvania Ozone SIP. This notice addresses amendments to Philadelphia's Air Management Regulation V by adding new definitions to Section I, pertaining to petroleum solvent dry cleaning, and by adding a new section XI, and compliance guidelines both entitled, "Petroleum Solvent Dry Cleaning."

In addition, the PADER's February 23, 1987 submittal included regulations for Pharmaceutical Tablet Coating Facilities as well as compliance guidelines for VOC and a revised definition of VOC. Only the portion of the February 23, 1987 SIP revision submittal pertaining to petroleum solvent dry cleaning is the subject of this final rulemaking action.

On August 3, 1988 (53 FR 29242), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed to approve a new regulation based on EPA's Group III Control Technique Guideline (CTG) document, "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners" (EPA-450/3-82-009). The NPR indicated that specific recordkeeping and reporting requirements were necessary for final EPA approval. These revisions were discussed in detail in the NPR and will not be restated here. The Philadelphia AMS incorporated the recordkeeping and reporting requirements into the compliance guidelines on February 29, 1988, and submitted them to EPA as an addendum to the SIP submittal. EPA has reviewed this SIP revision submittal and has determined that the amendments constitute RACT for this source category. Therefore, EPA is approving Pennsylvania's request to amend the Philadelphia portion of its ozone SIP in accordance with section 110 and part D of the CAAA of 1990.

Although this submittal preceded the date of enactment of the CAAA of 1990, it serves to fulfill part of the "RACT fix-up" requirements of amended section 182(a)(2)(A). Under section 182(a)(2)(A), States were required by May 15, 1991 to correct RACT as mandated under pre-amended section 172(b) as that provision was interpreted in pre-amendment guidance.[1] The SIP call letters interpreted that guidance and indicated corrections necessary for specific nonattainment areas. The Southeastern Pennsylvania (Philadelphia) area is classified as severe.[2] Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

Final Action

EPA is approving a revision to the Philadelphia portion of the Pennsylvania ozone SIP, submitted on February 23, 1987 by the PADER. This revision consists of amendments to Regulation V, Section I, "Definitions," and Section XI, "Petroleum Solvent Dry Cleaning," and Compliance Guidelines to accompany Regulation V, Section XI.

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

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, approving Philadelphia's portion of the Pennsylvania SIP, consist of amendments to Sections I, and XI of Regulation V, "Control Of Emissions Of Organic Substances From Stationary Sources," and compliance guidelines as a SIP revision, must be filed in the United States Court of Appeals for the appropriate circuit June 11, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

[1] Among other things, the pre-amendment guidance consists of the Post-87 policy (52 FR 45044, Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** Notice" (of which notice of availability was published in the **Federal Register** on May 25, 1988); and the existing CTG's.

[2] Southeastern Pennsylvania (Philadelphia) retained its designation of nonattainment and was classified by operation of law pursuant to section 107(d) and 181(a) upon enactment of the Amendments (56 FR 56694).

enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: February 12, 1993.

William T. Wisniewski,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(77) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(77) Revision to the State Implementation Plan submitted by the Pennsylvania Department of Environmental Resources on February 23, 1987, at the request of Philadelphia Air Management Services.

(i) Incorporation by reference.

(A) Letter from the Pennsylvania Department of Environmental Resources dated February 23, 1987, submitting a revision to the Philadelphia portion of the Pennsylvania Ozone State Implementation Plan.

(B) Regulation V, Section I, "Definitions" for the terms Petroleum Solvents and Petroleum Solvent Dry Cleaning; and Section XI, "Petroleum Solvent Dry Cleaning" effective November 28, 1986.

(C) Compliance Guidelines, for Air Management Regulation V, "Control of Emission of Organic Substances from Stationary Sources," Section XI: Petroleum Solvent Dry Cleaning" effective November 28, 1986 (containing amendments and revisions through February 29, 1988).

[FR Doc. 93–8419 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 58, No. 68
Monday, April 12, 1993

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–225–AD]

Airworthiness Directives; Airbus Industrie Model A300 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 Airbus Industrie Model A300 series airplanes. This proposal would require detailed visual inspections to detect cracking of a certain fuselage frame, and repair, if necessary. This proposal is prompted by reports of a crack initiating at hole "I" of frame 47 on two airplanes. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the airplane.

DATES: Comments must be received by June 7, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–225–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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

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 92–NM–225–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. 92–NM–225–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A300 series airplanes. The DGAC advises that it has received reports of a crack initiating at hole "I" of fuselage frame 47 on two Model A300 series airplanes. One crack was found on an airplane that had accumulated 25,000 total landings; the crack measured 122 mm (4.8 inches). Another crack was found on a second airplane that had accumulated 21,464 total landings; the crack measured 84 mm (3.3 inches). This cracking is attributed to fatigue. Analysis of the cracked parts indicated that the cracks initiated and propagated slowly up to 20 mm (0.79 inch), after which time the rate of propagation increased significantly. Such cracking, if not corrected, could result in reduced structural integrity of the airplane.

Airbus Industrie has issued All Operator Telex 53–02, dated November 2, 1992, that describes procedures for detailed visual inspections to detect cracking of the fuselage at the frame 47 forward fitting from the aft side around hole "I", and repair, if necessary. The DGAC classified this All Operator Telex as mandatory and issued French Airworthiness Directive 92–243–137(B) in order to assure the continued airworthiness of these airplanes in France.

Airbus Industrie has also issued A300 Service Bulletin 53–265, Revision 2, dated March 10, 1992, that describes procedures for conducting repetitive Rototest inspections of hole "I". Conducting repetitive Rototest inspections of hole "I" in accordance with this service bulletin would eliminate the need for the detailed visual inspections.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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 detailed visual inspections to detect cracking of a certain fuselage frame, and repair, if necessary. The actions would be required to be accomplished in

accordance with the All Operator Telex described previously.

Repetitive Rototest inspections of hole "I", if accomplished in accordance with Airbus Industrie A300 Service Bulletin 53–265, Revision 2, dated March 10, 1992, would constitute terminating action for the detailed visual inspection requirement of this AD action. [The Rototest inspection is required for certain Model A300 series airplanes by AD 93–01–24, Amendment 39–8478 (58 FR 6703, February 2, 1993).]

The FAA estimates that 77 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 10 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $42,350, or $550 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:

Airbus Industrie: Docket 92–NM–225–AD.

Applicability: Model A300 B2–1C, B2K–3C, B2–203, B4–2C, and B4–103, series airplanes on which Modification 2626 has not been installed, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the airplane, accomplish the following:

(a) Perform a detailed visual inspection to detect cracking of the fuselage, frame 47 at hole "I", in accordance with Airbus Industrie All Operator Telex 53–02, dated November 2, 1992, at the times specified in paragraphs (a)(1), (a)(2), or (a)(3), as applicable.

(1) For Model A300 B2–1C, B2K–3C, and B2–203 series airplanes: Prior to the accumulation of 15,000 total landings, or within 50 landings after the effective date of this AD, whichever occurs later.

(2) For Model A300 B4–2C and B4–103 series airplanes: Prior to the accumulation of 18,700 total landings, or within 50 landings after the effective date of this AD, whichever occurs later.

(3) For Model A300 B4–203 series airplanes: Prior to the accumulation of 14,100 total landings, or within 50 landings after the effective date of this AD, whichever occurs later.

(b) If no crack is detected, repeat the detailed visual inspection at intervals not to exceed 200 landings.

(c) If a crack is detected, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) Conducting a repetitive Rototest inspection of hole "I" in accordance with Airbus Industrie A300 Service Bulletin 53–265, Revision 2, dated March 10, 1992, constitutes terminating action for the detailed visual inspections required by this AD. If any crack is found, prior to further flight, repair it in accordance with that service bulletin.

Note: For certain Airbus Model A300 series airplanes, this Rototest inspection and necessary repairs are required by AD 93–01–24, Amendment 39–8478.

(e) 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, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) 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 April 6, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–8441 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–19–AD]

Airworthiness Directives; Cessna Citation Model 500/501, 550/551, S550, 552, and 560 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 Cessna Citation Model 500/501, 550/551, S550, 552, and 560 series airplanes. This proposal would require modification of the landing light electrical circuit. This proposal is prompted by a report of failures of the left and right landing light switches due to heavy current at the switch contacts. The actions specified by the proposed AD are intended to prevent smoke and an electrical fire in the cockpit.

DATES: Comments must be received by June 7, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–19–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 Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. C. Dale Bleakney, Aerospace Engineer, Systems and Equipment Branch, ACE–130W, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4135; fax (316) 946–4407.

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–19–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–19–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report that one operator has experienced nine failures of the left and right landing light switches on Cessna Citation Model 550, S550, and 552 series airplanes. These switches have failed because the existing landing light switch carries current that is too heavy at the switch contacts. Identical switches are installed on Citation Model 500/501, 550/551, S550, 552, and 560 series airplanes. This condition, if not corrected, could result in smoke and an electrical fire in the cockpit.

The FAA has reviewed and approved the following Cessna Citation Service Bulletins:

1. Service Bulletin SB500–33–09, dated September 1, 1992 (for Model 500/501 series airplanes);
2. Service Bulletin SB550–33–10, dated February 14, 1992 (for Model 550/551 series airplanes);
3. Service Bulletin SBS550–33–07, dated February 14, 1992 (for Model S550 series airplanes);
4. Service Bulletin SB552–33–04, dated December 1, 1992 (for Model 552 series airplanes); and
5. Service Bulletin SB560–33–01, dated February 14, 1992 (for Model 560 series airplanes).

These service bulletins describe procedures for modification of the landing light electrical circuit. The modification includes installing relays and circuit breakers in the tailcone and rewiring the landing light circuit. Installation of this modification will reduce the current carried through the existing landing light switch to the minimum amount needed to energize the relay.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require modification of the landing light electrical circuit. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 1,624 Citation Model 500/501, 550/551, S550, 552, and 560 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 996 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 90 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $900 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $5,826,600, or $5,850 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:

Cessna: Docket 93–NM–19–AD.

Applicability: Citation Model 500/501 series airplanes, unit numbers –0001 through –0689, inclusive; Citation Model 550/551 series airplanes, unit numbers –0002 through –0676, inclusive; Citation Model S550 series airplanes, unit numbers –0001 through –0160, inclusive; Citation Model 552 series airplanes, unit numbers –0001 through –0015, inclusive; and Citation Model 560 series airplanes, unit numbers –0001 through –0117, inclusive; certificated in any category

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and an electrical fire in the cockpit, accomplish the following:

(a) Within 90 days or 100 hours time-in-service after the effective date of this AD, whichever occurs first, modify the landing light electrical circuit in accordance with Cessna Citation Service Bulletin SB500–33–09, dated September 1, 1992 (for Model 500/501 series airplanes); SB550–33–10, dated February 14, 1992 (for Model 550/551 series airplanes); SBS550–33–07, dated February

14, 1992 (for Model S550 series airplanes); SB552–33–04, dated December 1, 1992 (for Model 552 series airplanes); or SB560–33–01, dated February 14, 1992 (for Model 560 series airplanes).

(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, Wichita Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(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 April 6, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–8442 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–16–AD]

Airworthiness Directives; SAAB-SCANIA Models SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain SAAB–SCANIA Models SAAB SF340A and SAAB 340B series airplanes, that currently requires replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits. This action would require replacement of additional life-limited components. This proposal is prompted by the identification of life limits for additional landing gear components on the affected airplanes. The actions specified by the proposed AD are intended to prevent reduced structural capability of the MLG and the NLG.

DATES: Comments must be received by June 7, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–16–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–16–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–16–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 13, 1992, the FAA issued AD 92–03–08, Amendment 39–8163 (57 FR 5376, February 14, 1992), to require replacement of certain life-limited components associated with the main landing gear (MLG) and nose landing gear (NLG) in accordance with revised life limits. That action was prompted by an analysis in which the life limits of landing gear components were recalculated in order to compensate for operation of SAAB Model 340 series airplanes at higher weights than those used to establish the life limits during airplane certification. The requirements of that AD are intended to prevent reduced structural capability of the MLG and the NLG.

Since the issuance of that AD, SAAB-SCANIA has identified additional landing gear components that are subject to the addressed unsafe condition. Consequently, SAAB-SCANIA has issued SAAB 340 Service Bulletin SAAB 340–32–066, Revision 2, dated June 12, 1992, that updates the revision levels of service bulletin Attachments 1 through 8; adds service bulletin Attachment 9, which identifies life limits for the additional landing gear components that are subject to the addressed unsafe condition; and lists modification dash numbers in service bulletin Attachments 4 through 7. The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, classified this service bulletin as mandatory.

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 supersede AD 92–03–08 to require replacement of additional life-limited landing gear components. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 210 airplanes of U.S. registry would be affected by this proposed AD, that it would take

approximately 48 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $4,700 per airplane. (These work hour and parts cost estimates are reiterated from AD 92–03–08.) This proposed AD would not add any new additional economic burden on affected operators, other than minimal costs associated with replacing additional life-limited landing gear components identified in Attachment 9 of the referenced service bulletin. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $1,541,400, or $7,340 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 removing amendment 39–8163 (57 FR 5376, February 14, 1992), and by adding a new airworthiness directive (AD), to read as follows:

SAAB-Scania: Docket 93–NM–16–AD. Supersedes AD 92–03–08, Amendment 39–8163.

Applicability: Model SF340A series airplanes, serial numbers 004 through 159, inclusive; and SAAB 340B series airplanes, serial numbers 160 and subsequent; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure proper operation of the main landing gear (MLG) and the nose landing gear (NLG), accomplish the following:

(a) Remove the MLG and NLG components identified in the attachments (listed below) to SAAB Service Bulletin SAAB 340–32–066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after April 15, 1991 (the effective date of AD 91–07–02, Amendment 39–6932), whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List."

SAAB Service Bulletin SAAB 340–32–066 Attachments

AP precision hydraulics service bulletin No.	Date issued	Attachment No.
AIR83530–32–07	Jan. 1990	1
AIR83570–32–04	Jan. 1990	2
AIR83572–32–01	Jan. 1990	3
AIR84306–32–07	Jan. 1990	4
AIR84350–32–01	Jan. 1990	5
AIR83022–32–18 REV 1.	Aug. 1990	6

(b) Remove the MLG and NLG components identified in the attachments (listed below) to SAAB Service Bulletin SAAB 340–32–066, Revision 1, dated October 17, 1990, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after March 16, 1992 (the effective date of AD 92–03–08, Amendment 39–8163), whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List."

SAAB Service Bulletin SAAB 340–32–066 Attachments

AP precision hydraulics service bulletin No.	Date issued	Attachment No.
AIR83064–32–02	Jan. 1990	7
AIR84310–32–07	Jan. 1990	8

(c) Remove the MLG and NLG components identified in the attachments (listed below) to SAAB Service Bulletin SAAB 340–32–066, Revision 2, dated June 12, 1992, and replace them with serviceable components prior to the accumulation of the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List," or within 60 days after the effective date of this AD, whichever occurs later. Thereafter, replace these components with serviceable components at intervals not to exceed the number of landings listed in the "Fatigue Life Flights" column of the applicable "Life Limited Parts List."

SAAB Service Bulletin SAAB 340–32–066 Attachments

AP precision hydraulics service bulletin No.	Date issued	Attachment No.
AIR83530–32–07 REV 1.	Jan. 1992	1
AIR83570–32–04 REV 1.	Jan. 1992	2
AIR83572–32–01 REV 1.	Jan. 1992	3
AIR84306–32–07 REV 1.	Jan. 1992	4
AIR84350–32–01 REV 1.	Jan. 1992	5
AIR83022–32–18 REV 2.	Jan. 1992	6
AIR83064–32–02 REV 1.	Jan. 1992	7
AIR84310–32–07 REV 1.	Jan. 1992	8
AIR83608–32–01	Jan. 1992	9

(d) 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, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 6, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–8440 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–21–AD]

Airworthiness Directives; Short Brothers, PLC, Model SD3–SHERPA 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 Short Brothers Model SD3–SHERPA series airplanes. This proposal would require modification of the power supply to the emergency lighting system and a subsequent functional test of the system. This proposal is prompted by an engineering analysis, which revealed that, in the event of loss of normal electrical power, the emergency lighting system may fail to illuminate or remain illuminated. The actions specified by this AD will prevent failure of the emergency lights to illuminate during an emergency.

DATES: Comments must be received by June 7, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–21–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 Short Brothers, PLC, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202–3719. 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, Transport Airplane Directorate, FAA, 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–21–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–21–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 Short Brothers Model SD3–SHERPA series airplanes. The CAA advises that results of an engineering analysis have revealed that, due to engineering design problems, the emergency lighting system may fail to illuminate or remain illuminated in the event of loss of normal electrical power. If the emergency lighting system were to fail to illuminate during an emergency, passengers and flight attendants may experience impaired vision during performance of duties or evacuation of the airplane.

Short Brothers, PLC, has issued Shorts Service Bulletin SD3 SHERPA–33–1, dated January 17, 1993, that describes procedures for modification of the power supply to the emergency lighting system and a subsequent functional test of the system. The modification involves installing a new relay with associated wiring and diodes between circuit breaker 243 and the left and right generator line contactor slave relays to ensure that the system will automatically illuminate under all conditions if normal airplane power is interrupted or lost. 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 modification of the power supply to the emergency lighting system and a subsequent functional test of the system. 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 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would be provided by the manufacturer at no cost to operators. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $13,750, or $1,375 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:

Short Brothers, PLC: Docket 93–NM–21–AD.

Applicability: Model SD3–SHERPA series airplanes; serial numbers SH3201 through SH3210, inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the emergency lighting system to illuminate during an emergency, accomplish the following:

(a) Within 6 months after the effective date of this AD, modify the power supply to the emergency lighting system and perform a functional test of the system in accordance with Shorts Service Bulletin SD3 SHERPA–33–1, dated January 17, 1993.

(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. 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, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on April 6, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–8443 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–13–M

Coast Guard

33 CFR Part 165

[CGD1 93–012]

Safety Zone Regulations: Town of Stratford, CT Fireworks

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone at the Mouth of the Housatonic River at Short Beach, Stratford, CT from 9 p.m. to 10 p.m. on July 3, 1993. This safety zone will be needed to protect the maritime community from possible navigation hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Long Island Sound.

DATES: Comments must be received on or before May 27, 1993.

ADDRESSES: Comments may be mailed to the Captain of the Port, 120 Woodward Avenue, New Haven, CT 06512 or may be delivered to the Port Operations office at the above address between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (203) 468–4464.

The Captain of the Port maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at the Port Operations office at the above address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander D. D. Skewes, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4464.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD1 93–012) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under "ADDRESSES." If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at the time and place announced by a later notice in the Federal Register.

Drafting Information

The principal persons involved in drafting this document are LCDR D. D. Skewes, Project Manager, Captain of the Port, Long Island Sound, and LCDR J. Stieb, Project Counsel, First Coast Guard District, Legal Office.

Background and Purpose

On February 24, 1993 the sponsor, The Town of Stratford, CT requested that a fireworks display be permitted in the port of Stratford in the vicinity of Short Beach, Stratford, CT from 9 p.m. to 10 p.m. on July 3, 1993.

Discussion of Proposed Amendments

The Coast Guard proposes to establish a safety zone within an 800 foot radius of the fireworks launching site, located on Short Beach, Stratford, CT. This zone is required to protect the maritime community from the dangers and potential hazards to navigation associated with this fireworks display which is occurring over the Housatonic River, a navigable waterway. Entry into or movement within this zone is prohibited unless authorized by the Captain of the Port or his on scene representative.

Regulatory Evaluation

The proposal is not major under Executive Order 12291 and not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). Due to the limited duration of the fireworks display, the small size of the safety zone and low level or nonexistent commercial vessel traffic expected in the area during the effective time of the zone, the Coast Guard expects the economic impact of this proposal to be so minimal that a Regulatory Evaluation is unnecessary. Marine safety voice

advisories will be broadcast during the day of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal 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).

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal 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 proposal in accordance with the principles and criteria contained in Executive Order 12612 and has determined that this proposal does not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposal 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, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 165 of title 33, Code of Federal Regulations as follows:

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

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

2. A temporary § 165.T01–012 is added to read as follows:

§ 165.T01–012 Town of Stratford CT Fireworks.

(a) *Location.* The following area has been declared a safety zone: All waters of the Housatonic River within 800 feet of the fireworks launching site, located on Short Beach, Stratford, CT approximately 700 feet from the eastern end of Dorne Drive in approximate position 41° 09′ 50″ N and 073° 06′ 35″ W.

(b) *Effective date.* This regulation becomes effective at 9 p.m. July 3, 1993. It terminates at 10 p.m. July 3, 1993. The rain date for this project is July 5, 1993 at the same times.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port or his on scene representative.

Dated: March 31, 1993.

H. Bruce Dickey,

Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 93–8469 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Maximum Thickness of Postcards

AGENCY: Postal Service.

ACTION: Notice of inquiry.

SUMMARY: The Postal Service requests comments on the desirability of increasing the maximum allowable thickness for postcards. Several mailers have suggested that thicker postcards should be permitted. This notice seeks comments from mailers, postcard manufacturers, and any other interested persons on the desirability of a change in the maximum thickness requirement.

DATES: Comments should be received by May 27, 1993.

ADDRESSES: Address all comments to the Vice President, Customer Service Support, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5903. Copies of all written comments will be available for inspection between 9 a.m. and 4 p.m., Monday through Friday, in room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Evelyn Stein, (202) 268–5175.

SUPPLEMENTARY INFORMATION: Domestic Mail Classification Schedule Section 100.021, and Domestic Mail Manual Section 322.2, currently provide that the maximum allowable thickness for pieces eligible to be mailed as First-Class postcards is 0.0095 inch. As a result of comments from several mailers that thicker postcards should be permitted, the Postal Service is considering action to increase the maximum allowable thickness. To assist in this effort, the Postal Service requests comments from mailers, postcard manufacturers, and any other interested persons on the desirability of a change in the maximum thickness requirement. Commenters should include a statement of what range of thickness they currently use, what they believe the maximum allowable thickness should be, and, whether they would be willing to submit samples to assist in analyzing the processing capabilities of different thicknesses of postcard stock. After reviewing comments the Postal Service will decide whether to proceed with the necessary regulatory action to increase the maximum thickness of postcards.

Stanley F. Mires,

Chief Counsel, Legislative Division.

[FR Doc. 93–8251 Filed 4–9–93; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH20–1–5388; FRL–4612–4]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to approve and disapprove specific portions of a requested site-specific State Implementation Plan (SIP) revision to the ozone control provisions of the Ohio SIP. The revision pertains to the Columbus Coated Fabrics (CCF) facility in Franklin County, Ohio. Franklin County was redesignated as attaining the National Ambient Air Quality Standards (NAAQS) for ozone, effective December 12, 1985. Franklin County was again redesignated as nonattainment for ozone, and classified as marginal, effective January 6, 1992. The revision request is for an alternative emission reduction plan (bubble), with monthly averaging for 12 of 15 vinyl coating lines, an extended compliance schedule for 15 vinyl coating lines, and a permanent relaxation from Ohio's Rule 3745–21–09(H) for 11 U-frame vinyl coating lines. USEPA is proposing to disapprove the revision for the 15 vinyl coating lines for the period from the initial compliance date, April 1,

1982, until December 12, 1985, and from January 6, 1992, on, because the revision does not meet USEPA's compliance date extension policy and SIP relaxation policy for nonattainment areas USEPA is proposing to approve the revision for the 15 vinyl coating lines for the period from December 12, 1985, to January 6, 1992, because it meets USEPA's emissions trading policy for attainment areas. Finally, USEPA is proposing to approve the revision for the 11 U-frame vinyl coating lines as a site-specific determination of reasonably available control technology (RACT), for the period from April 1, 1982, to January 6, 1992. USEPA is proposing disapproval of the revision for RACT relaxation from January 6, 1992, because relaxation from RACT in an ozone nonattainment area is prohibited by the Clean Air Act Amendments of 1990.

DATES: Comments on this requested revision and on the proposed USEPA action must be received by May 12, 1993.

ADDRESSES: Copies of the SIP revision and USEPA's analysis are available at the following addresses for review: (It is recommended that you telephone Bonnie Bush, at (312) 353–6684, before visiting the Region 5 office.) U.S. Environmental Protection Agency, Region 5, Air Enforcement Branch (AE–17J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

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

FOR FURTHER INFORMATION CONTACT: Bonnie J. Bush, Air Enforcement Branch, (AE–17J), Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604, (312) 353–6684.

SUPPLEMENTARY INFORMATION:

I. Background

On November 18, 1983, April 25, 1984, June 14, 1984, and June 24, 1985, the Ohio Environmental Protection Agency (OEPA) submitted a revision request (with several amendments) to its ozone SIP relating to the Columbus Coated Fabrics (CCF) facility. This revision request contains a bubble with monthly averaging for 12 of 15 vinyl coating lines, an extended compliance schedule for the 15 vinyl coating lines, and a permanent relaxation of emission limitations for 11 U-frame vinyl coating lines located at CCF's facility in Columbus, Franklin County, Ohio.

Current SIP

Under the existing federally approved SIP, each vinyl coating line is subject to the emission control requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(H) (4.8 pounds VOC per gallon of coating as a daily average) and to the deadline for final compliance contained in OAC Rule 3745–21–04(C)(7) (April 1, 1982). USEPA approved these rules as meeting the RACT [1] requirements of part D of the Clean Air Act on October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28907). Subsequently, Franklin County was redesignated to attainment for ozone, effective December 12, 1985 (50 FR 46650, November 12, 1985), and again redesignated to nonattainment for ozone and classified as marginal under the Clean Air Act Amendments of 1990 (CAAA), effective January 6, 1992 (56 FR 56694, November 6, 1991). Therefore, the CCF revision must be evaluated both as to whether it is approvable in an attainment area (Franklin County from December 12, 1985, to January 6, 1992) and in a nonattainment area (Franklin County, pre-December 12, 1985, and post-January 5, 1992). USEPA evaluated Ohio's submission to determine whether it meets the requirements of USEPA's Emissions Trading Policy, Extended Compliance Policy, and Long Term Averaging Policy, and whether the Franklin County ozone plan, with the SIP revision, still provides for maintenance of the ozone NAAQS.

II. USEPA's Policies Applicable to the Review of the CCF Revision

USEPA's Bubble Policy

On April 7, 1982 (47 FR 15076), the USEPA issued a proposed Emissions Trading Policy Statement (ETPS) which sets forth general principles for the creation, banking and use of emission reduction credits. This statement indicated that it is the policy of USEPA to encourage use of emissions trades to achieve more flexible, rapid and efficient attainment of the NAAQS.[2] It describes emissions trading, sets out general principles that USEPA will use to evaluate emissions trades under the Clean Air Act, and expands opportunities for states and industry to use these less costly control approaches. The April 7, 1982, notice stated that, until USEPA takes final action on its policy statement, state actions involving emission trades would be evaluated under the provisions set forth in the proposed statement. On December 4, 1986 (51 FR 43814), USEPA issued its final ETPS, which contains the criteria by which emission trades are now evaluated.

A source may secure emission reduction credits by meeting each of the applicable requirements of the final ETPS. To be approvable, the bubble must produce results which are equivalent to or better than the baseline emission levels in terms of ambient impact and enforceability. Generally, only reductions which are surplus, enforceable, permanent, and quantifiable can qualify as emission reduction credits. In attainment areas and nonattainment areas with approved plans, a source must use the lower of actual or allowable values for each of the three baseline components, unless allowable values higher than corresponding actual values are clearly used or reflected in the demonstration of attainment or otherwise shown not to jeopardize ambient standards. In nonattainment areas lacking an approved demonstration of attainment, a source must use the lower of actual, RACT allowable, or SIP allowable values for each of the baseline components, with an additional 20 percent reduction in emissions, to calculate the baseline. The three baseline factors (which amount to the RACT allowable limit, times actual production) are described in the following paragraph. Actual values for these factors are determined based upon the source's average historical values for the factors for the 2-year period preceding the source's application to trade emission reduction credits.

For bubbles, a source's "baseline" emissions are equal to the product of its: (1) Emission rate ("ER"), specified in terms of mass emissions per unit of production or throughput (e.g., pounds of volatile organic compound (VOC) per weight of solids applied); (2) average hourly capacity utilization ("CU") (e.g., weight of solids applied per hour); and (3) number of hours of operation ("H") during the relevant time period. In sum, baseline emissions=ER×CU×H. Net baseline emissions for a bubble are the sum of the baseline emissions of all sources involved in the trade.

However, in the case of a bubble based on a weighted average over several coating lines (crossline average), it may not be appropriate to specify

[1] A definition of RACT is contained in a December 9, 1976, Memorandum from Roger Strelow, Former Assistant Administrator for Air and Waste Management. RACT is the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility.

[2] The NAAQS were determined such that they protect human health and well-being and prevent undesirable effects on the environment. See section 109 of the Clean Air Act and 40 CFR part 50.

baseline values for capacity utilization and hours of operation. In general, USEPA does not require ozone attainment demonstrations to restrict sources' production levels but allows States to assume typical summer day production levels and limit sources on a rate basis (e.g., lb VOC/lb solids). Therefore, a crossline average SIP revision can be considered consistent with USEPA policy with respect to development of ozone control strategies if the revision: (1) Has as its basis the lower of actual or allowable emission rate and current production; or (2) makes no assumptions concerning production but is based solely on the appropriate emission rate. In a crossline average, credit is generated and used over a 24-hour period (i.e., a lower emission rate on one line over a day compensates for a high emission rate on another line) and, therefore, the amount of credit does not depend on historical production. It should be noted that in cases where there is a limited amount of credit based on historical operation (e.g., credits from post-application shutdowns or curtailments), it is appropriate to determine baseline values for capacity utilization and hours of operation based on the two years prior to application to the State. For these bubbles, the amount of creditable reductions relates directly to the historical production levels.

USEPA's Source-Specific SIP Revision Policy

USEPA's July 29, 1983, policy memorandum on "Source Specific SIP Revisions" states that:

> For a State to secure USEPA approval of a relaxation and continue overall approval status, however, the State would need to show that the SIP as a whole, despite the relaxation, would continue to "provide for" attainment by the end of 1982 in the nonextension areas * * *. For VOC [nonattainment areas] this generally will require a data base and modeling demonstration consistent with that applied in extension areas.

In areas designated attainment (Franklin County from December 12, 1985, to January 6, 1992), this essentially means that the State must demonstrate that the SIP, with the revision, will continue to provide for maintenance of the NAAQS. For nonattainment areas with approved plans (Franklin County, pre-December 12, 1985), a revised strategy, with a new emission inventory and modeling, would be required. Nonattainment areas without approved plans (Franklin County, post-January 5, 1992), are addressed by the General Savings Clause of the Clean Air Act Amendments of 1990, subpart 6, section 193:

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

For nonattainment areas without approved plans, the State must demonstrate that the SIP revision provides for emission reductions at least equivalent to the reductions provided for by the unrevised SIP.

USEPA's Long-Term Averaging Policy

USEPA's January 20, 1984, policy memorandum on "Averaging Times for Compliance with VOC Emissions Limits" reads as follows:

> 1. A demonstration must be made that the use of long-term averaging (greater than 24-hour averaging) will not jeopardize either ambient standards attainment or the reasonable further progress (RFP) plan for the area. This must be accomplished by showing that the maximum daily increase in emissions associated with long-term averaging is consistent with the approved ozone SIP for the area.
>
> 2. Averaging periods must be as short as practicable and in no case longer than 30 days.

This policy is relevant to all nonattainment areas, and to attainment areas where: (1) An increase in actual emissions on a 24-hour basis is being contemplated and (2) the increase is not provided for in the area's attainment demonstration.

Compliance Date Extension Policy

To be approvable, the time extension must comply with the Clean Air Act and USEPA's policy on compliance date extensions. A detailed discussion of USEPA policy related to compliance date extensions appears in appendix A of the final rulemaking published on November 8, 1988, at 53 FR 45103.

III. Discussion and Evaluation of the CCF Revision Request

Fifteen Vinyl Coating Lines

The 15 vinyl coating lines are required to comply with the emission control requirement of 4.8 pounds VOC per gallon of coating on a daily basis or to comply with the requirements for add-on controls. CCF has agreed to install add-on controls for three lines to achieve compliance with the VOC limits for these lines. CCF agrees that add-on controls for these three lines are both technologically and economically feasible. The affected three vinyl coating lines account for the majority of the VOC emissions from CCF's 15 vinyl coating lines. Emissions from these lines were to be controlled by capture and incineration equipment which is subject to the 75 percent capture efficiency, 90 percent control requirements contained in OAC Rule 3745–21–09(H)(2). The revised compliance date was December 31, 1985, for these lines.

For 8 of the remaining 12 lines, CCF has demonstrated that use of water-based ink and coating technology, where feasible, would not provide for attainment of the 4.8 pounds VOC per gallon of coating limit on a daily basis. Therefore, CCF proposes to achieve compliance with Ohio's revised plan for these 8 lines through application of a bubble and a monthly weighted average VOC content of 4.8 pounds of VOC per gallon of coating employed, minus water, by December 31, 1985, for the 12 vinyl coating lines combined. If compliance with the bubble-limitation cannot be achieved by eliminating the use of certain solvent-based coatings and increasing the use of waterborne coatings, then CCF had to install add-on control equipment, as necessary, to ensure compliance by December 31, 1985.[3] Interim emission limitations were established as follows: CCF had to achieve VOC emission levels not exceeding 5.5, 5.0, and 4.6 pounds of VOC per gallon of coating employed, minus water, respectively, as annual (1983, 1984, and 1985), volume-weighted averages for all coatings employed in the 15 vinyl coating lines.

On and after October 1, 1983, CCF had to keep records regarding the composition and quantity of each coating employed in these lines during each calendar month. In addition, CCF had to submit quarterly reports to OEPA which specify the total quantity of coatings employed in the previous quarter and the volume-weighted average VOC emission rate for each month.

IV. Analysis

The State requested a revision providing for a bubble for 12 lines, a compliance date extension for these 12 lines, plus 3 additional lines, and monthly averaging for the 12 lines. Because Franklin County, where CCF is located, was redesignated to attainment of the ozone NAAQS, effective December 12, 1985 (50 FR 46650,

[3] CCF was to have achieved final compliance by use of incineration for 3 of the 15 vinyl coating lines and the remaining 12 vinyl coating lines through the use of waterborne coatings under the bubble in 1985.

November 12, 1985),[4] and was again redesignated to marginal nonattainment, effective January 6, 1992 (56 FR 56694, November 6, 1991), and because the revision is applicable to timeframes both before and after each redesignation, the CCF revision must be evaluated both as to whether it is approvable in an attainment area (Franklin County from December 12, 1985, to January 6, 1992) and in a nonattainment area (Franklin County pre-December 12, 1985, and post-January 5, 1992).

As discussed below, the State has provided support for a bubble located in an attainment area and in a nonattainment area with an approved (pre-1990 CAAA) part D plan. However, the State's submittal does not meet the specific requirements in USEPA's compliance date extension and monthly averaging policies, which apply to CCF during Franklin County's ozone nonattainment periods, but does meet these policies for the period when Franklin County was redesignated to attainment.

Extended Compliance and Long-Term Averaging Analysis for Nonattainment Area Timeframes

A compliance date extension to December 31, 1985, was requested for both the 3 lines complying by add-on controls and the 12 remaining lines. USEPA has determined that this compliance date extension to December 31, 1985, is not approvable, for the timeframe that Franklin County was designated nonattainment, based on the Clean Air Act and USEPA's policy on compliance date extensions. In particular, the State has not adequately researched the compliance status of other similar sources to determine if compliance by the original deadline was reasonable. Therefore, the revision for a compliance date extension for CCF must be proposed for disapproval for the timeframe that Franklin County was designated nonattainment. A more detailed discussion of the rationale for proposing disapproval of the State submission and of the Clean Air Act and USEPA policy related to compliance date extensions appears in Appendix A of the final rulemaking published on November 8, 1988, at 53 FR 45103.

In addition, monthly averaging for 12 lines was requested for CCF. USEPA's January 20, 1984, policy memorandum on averaging times allows extended averaging "where the source operations are such that * * * the application of RACT for each emission point is not economically or technically feasible on a daily basis." However, the averaging time should be as short as practicable and in no case longer than 30 days.

Ohio has submitted documentation from CCF which establishes that: (1) Waterborne ink and coating technology was not available for all of their products, (2) where feasible, waterborne technologies were being used, and (3) application of controls for each emission point was not reasonable and/or feasible on a daily basis.

However, Ohio did not document that CCF could not utilize an averaging period shorter than 30 days, e.g., 7 days or 15 days. Therefore, Ohio has not documented that the CCF revision meets the requirements of the Clean Air Act and USEPA's policy memorandum on extended averaging periods. Consequently, the revision for an extended averaging period for CCF must be proposed for disapproval for the timeframes that Franklin County has been designated nonattainment, i.e., pre-December 12, 1985, and post-January 5, 1992.

Extended Compliance and Long-Term Averaging Analysis for Attainment Area Timeframe

For such sources in attainment areas, the Clean Air Act only requires that SIP revisions not interfere with maintenance of the NAAQS. Based on the "worst case" daily emissions, the potential single day emissions increase allowed by this SIP revision would be 3.9 tons of VOC for the 15 vinyl coating lines and 1.0 ton of VOC for the 11 U-frames. The 1983 RFP update for Ohio shows that the growth margin for the Columbus demonstration area (which includes Franklin County) was approximately 2,481 tons per year at the end of 1983, or approximately 6.8 tons per day (based on the 1979 ozone SIP). The estimates from CCF indicate that 4.9 tons of the available daily growth margin would be consumed under the "worst case" conditions. Therefore, the maximum daily VOC emissions from CCF were consistent with the ozone portion of the pre-CAAA Ohio SIP, and this revision should not have interfered with maintenance of the ozone NAAQS in Franklin County, while the area was in attainment, since the possible increase in emissions allowed by this revision was well within the surplus emission reductions contained in Ohio's part D plan for Franklin County.

Bubble for Attainment and Nonattainment Timeframes

A bubble was requested for 12 vinyl coating lines. USEPA has determined that the revision is consistent with the bubble principles contained in USEPA's Emissions Trading Policy Statements of April 7, 1982 (47 FR 15076), and December 4, 1986 (51 FR 43814); both for the periods when Franklin County was designated nonattainment for ozone (pre-December 12, 1985, and post-January 5, 1992) and when it was designated attainment (from December 12, 1985, to January 6, 1992). The proposed bubble VOC emission limitation is specified within the special terms and conditions of the variances, which are summarized in the following table:

Sources	Emissions (tons per year)			
	Actual		Allowable	
	Before Bubble (1982)	After Bubble (1985 estimated)	Before Bubble (1983)	After Bubble (1985 estimated)
15 vinyl coating lines	448	376	204	378

[4] USEPA's current policy for redesignating areas is found in the September 4, 1992, John Calcagni memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment" which supplements the April 6, 1987, Gerald A. Emison memorandum entitled "Ozone Redesignation Policy", and the April 21, 1983, Sheldon Meyers redesignation policy guidance. Franklin County was redesignated (November 12, 1985) before these supplemental policies were issued.

The allowable emissions are based on the applicable limit of 4.8 pounds of VOC per gallon of coating, excluding water. The apparent increase in "after bubble" allowable emissions was based solely on an expected increase in 1985 production levels. Because the bubble is based on a weighted average[5] emission limit, it is possible for both actual and allowable tons of emissions to increase, with increased production. Nonetheless, for the 12 bubbled lines, the monthly average emission rate will not exceed 4.8 pounds of VOC per gallon, excluding water. The revision contains a compliance methodology which requires CCF to record and report the composition and quantity of each coating employed on each line during the calendar month. Therefore, USEPA has a mechanism to determine CCF's compliance with the monthly averaged limit. The limit is also permanent and quantifiable. Moreover, OEPA has demonstrated that the maximum increase in emissions caused by this revision would not jeopardize maintenance of the ozone standard during Franklin County's attainment period, because the possible increase in emissions allowed by this revision is within the surplus emission reductions contained in Ohio's part D plan for Franklin County.

Based on the above evaluation, USEPA is proposing to disapprove the SIP revision for the 15 vinyl coating lines (K001–K015) at CCF for the timeframes from April 1, 1982, to December 12, 1985, and from January 6, 1992, on,[6] and approve it from December 12, 1985, to January 6, 1992.

Eleven U-Frame Vinyl Coating Lines (K016–K026)

Ohio requested a permanent relaxation of the SIP for CCF's 11 U-frame vinyl coating lines. Under this request, CCF could not use any coating which would exceed 6.1 pounds of VOC per gallon of coating, minus water, and CCF would have to maintain monthly records for the 11 U-frame vinyl coating lines. CCF stated in its submittal to OEPA that the use of waterborne or high solids coatings is not feasible for the 11 U-frame vinyl coating lines because the small distance between the coating stations would not provide adequate drying time. Therefore, CCF contracted a consultant to perform studies of the technical feasibility and cost-effectiveness of installing add-on control equipment, in order to bring the 11 U-frame lines into compliance with OEPA's regulations. The studies show that the most cost-effective control option for any one coating line is over $7500 per ton of VOC controlled. These results demonstrate that it is not economically reasonable to install add-on equipment in order to bring CCF's 11 U-frames into compliance with the requirements in OEPA's Rule. CCF has demonstrated that a limit of 6.1 pounds of VOC per gallon of coating constitutes RACT for these 11 U-frame vinyl coating lines. The details supporting these conclusions can be found in "RACT VOC Study for Columbus Coated Fabrics" prepared by TRC Environmental Consultants, Inc., and "Technical Support Information for Proposed VOC Bubble". Both documents are part of the public docket, and copies are available from Region 5.

Air Quality Status

For this SIP revision to be approvable in both the attainment and the pre-December 12, 1985, nonattainment timeframes, Ohio had to demonstrate that any increase in allowable emissions from the 15 vinyl coating lines and 11 U-frame lines would not jeopardize attainment and maintenance of the NAAQS in Franklin County. USEPA believes Ohio adequately supported a demonstration that the increase in allowable emissions would not jeopardize attainment and maintenance by showing that the "worst case" daily VOC emissions increase from CCF was consistent with Ohio's pre-CAAA ozone SIP, because the increase would not exceed the growth margin for Franklin County, and by Ohio's including CCF's net annual VOC emissions increase in its annual RFP update. Therefore, USEPA believes that an adequate demonstration was made that this SIP revision would not jeopardize the attainment and maintenance of the NAAQS in Franklin County. Based on the "worst case" daily emissions, the potential single day emissions increase allowed by this SIP revision would be 3.9 tons of VOC for the 15 vinyl coating lines and 1.0 ton of VOC for the 11 U-frames. The 1983 RFP update for Ohio shows that the growth margin for the Columbus demonstration area (which includes Franklin County) was approximately 2,481 tons per year at the end of 1983, or approximately 6.8 tons per day (based on the 1979 ozone SIP). The estimates from CCF indicate that 4.9 tons of the available daily growth margin would be consumed under the "worst case" conditions. Therefore, the maximum daily VOC emissions from CCF were consistent with the ozone portion of the pre-CAAA Ohio SIP. However, subpart 6, section 193 of the Clean Air Act, as amended on November 15, 1990, prohibits any relaxation from RACT, without at least equivalent emission reductions, in a nonattainment area, as follows:

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

The revision contains no plan for emission offsets or equivalent emission reductions, and Franklin County was redesignated as marginal nonattainment for ozone effective January 6, 1992 (56 FR 56694, November 6, 1991). Therefore, no permanent RACT relaxation can be approved.

V. Proposed Rulemaking Action

USEPA today is proposing to disapprove the requested revision for the 15 vinyl coating lines (bubble, monthly averaging, and compliance date extension) for the period from April 1, 1982, until December 12, 1985, and from January 6, 1992, on, because it does not meet USEPA's compliance date extension policy and monthly averaging policy for nonattainment areas (e.g., Franklin County pre-December 12, 1985, and post-January 5, 1992). However, USEPA is proposing to approve the requested revision for the 15 vinyl coating lines for the period from December 12, 1985, to January 6, 1992, because it meets USEPA's emissions trading policy for attainment areas (e.g., Franklin County December 12, 1985, to January 6, 1992), and it has been adequately demonstrated that emissions allowed by this SIP revision would not interfere with maintenance of the ozone standard in Franklin County. Finally, Region 5 is proposing to approve this revision for the 11 U-frame vinyl coating lines as a site-specific reasonably available control technology (RACT) for the period from April 1, 1982, to January 6, 1992. Region 5 is proposing to disapprove this revision as RACT from January 6, 1992, on, because relaxation from RACT in an ozone nonattainment area is prohibited by the Clean Air Act Amendments of 1990.

Nothing in this action should be construed as permitting, allowing or

[5] A weighted average emission limit is an average limit based upon the product of the quantity of each coating used and its VOC content.

[6] Although this revision during the nonattainment timeframe conforms to USEPA's ETPS, it does not conform to the monthly averaging and compliance date extension policies. The monthly averaging and compliance date extension requests are not separable from the bubble request, and therefore, the bubble is also being proposed for disapproval. See *Bethlehem Steel Corporation v. Gorsuch*, 742 F.2d 1028 (7th Cir. 1984).

establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before May 12, 1993 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region 5 office listed at the front of this notice.

This action has been classified as a Table Three action by the Regional Administrator under the procedures published in the **Federal Register** on January 6, 1989, the Office of Management and Budget (OMB) waived Tables Two and Three SIP revisions (54 FR 222) from the requirements of Section 3 of Executive Order 12291 for a period of 2 years. USEPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on USEPA's request.

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

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

This disapproval affects only one source, Columbus Coated Fabrics. Therefore it does not have a significant impact on a substantial number of small entities. Furthermore, as explained in this notice, the request does not meet the requirements of the CAA and USEPA cannot approve the request. Therefore, USEPA has no option but to disapprove the submittal.

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

The Agency has reviewed this request for revision of the federally-approved State Implementation Plan for conformance with the provisions of Clean Air Act Amendments of 1990 enacted on November 15, 1990. The Agency has determined that a portion of this action does not conform with the statute as amended and must be disapproved. The Agency has examined the issue of whether this action should be reviewed only under the provisions of the law as it existed on the date of submittal to the Agency (i.e., prior to November 15, 1990) and has determined that the Agency must apply the new law to this revision.

List of Subjects in 40 CFR Part 52

Air pollution control, Environmental protection, Hydrocarbons, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 1993.

Robert Springer,

Acting Regional Administrator.

[FR Doc. 93–8392 Filed 4–9–93; 8:45 am]

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40 CFR Part 82

[FRL–4611–7]

RIN 2060–AD51

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: With this notice, EPA is proposing a rule that will require each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of title VI of the Clean Air Act, relating to Stratospheric Ozone Protection, and to maximize the substitution of safe alternatives for ozone-depleting substances as identified under section 612 of the Act. The proposed rule also requires each department, agency, and instrumentality of the United States to certify to OMB within twelve months of the final publication of this regulation that its procurement regulations have been modified in accordance with this rule. The final promulgation of this rule will satisfy EPA's obligation under section 613 of the Clean Air Act.

The substances affected by this proposed rulemaking are ozone-depleting substances which are listed as either class I or class II substances under rules promulgated under sections 604 and 606 of the Act. These proposed regulations have been developed in consultation with the Administrator of the General Services Administration and the Secretary of Defense, as required by section 613.

DATES: If no hearing is requested, written comments on this proposed rule must be submitted on or before May 12, 1993. If a hearing is requested, the comment period will be held open pursuant to section 307(d)(5) for 30 days following the hearing. Pursuant to section 307(d) of the Clean Air Act, a public hearing will be held, if a request for such a hearing is received on or before April 19, 1993. EPA will hold a public hearing on this notice on April 27, 1993. Any request for such a hearing should be directed to the contact person designated below.

ADDRESSES: Comments should be submitted in duplicate to the attention of Air Docket A–93–12 at: U.S. Environmental Protection Agency (LE–131) 401 M Street, SW., Washington, DC 20460. The Docket is located in room M–1500, First Floor, Waterside Mall. Material relevant to this rulemaking may be inspected from 8:30 a.m. to 12 noon and from 1:30 to 3:30 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter Voigt at (202) 233–9185, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation, 6205J, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Background
II. Section 613—Federal Procurement
III. Other Requirements of Title VI of the Clean Air Act

1. Sections 604, 605, and 606—Phaseout of Ozone-depleting Substances
2. Section 608—National Recycling and Emission Reduction Program
3. Section 609—Servicing of Motor Vehicle Air Conditioners
4. Section 610—Nonessential Products Containing Ozone-depleting Substances
5. Section 611—Labeling
6. Section 612—Safe Alternatives Policy
IV. Implementation of Section 613—Federal Procurement
V. Request for Comment
VI. Summary of Supporting Analyses
A. Executive Order 12291
B. Regulatory Flexibility Act
C. Paperwork Reduction Act

I. Background

During the past decade, there has been a significant decrease in the detected amount of stratospheric ozone. Broad scientific consensus has emerged that such continuing depletion of the stratospheric ozone will lead to increased levels of UV–B radiation penetrating to the earth's surface, resulting in potential health and environmental harm, including increased incidence of certain skin cancers and cataracts, suppression of the immune system, damage to crops and aquatic organisms, increased formation of ground-level ozone, and increased weathering of outdoor plastics. According to recent information released by the United Nations Environment Programme (UNEP) Scientific Assessment of Ozone Depletion, the rate of ozone depletion is significantly greater than originally estimated. To address this problem, the United Nations Environment Programme sponsored the successful negotiation of the Montreal Protocol on Substances that Deplete the Ozone Layer (the Montreal Protocol). In effect since 1988, the Protocol requires each nation party to it to control the production and consumption of substances which deplete stratospheric ozone. These substances include chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform and hydrochlorofluorocarbons. The United States is a party to this international agreement. (For a more detailed explanation of the issues involved, see 57 FR 33755–33757 (July 30, 1992).

The Clean Air Act, like the Montreal Protocol, establishes controls in the production and consumption of ozone-depleting substances and also creates additional regulatory programs aimed at reversing the trend of ozone depletion. As a result, EPA has issued, or will be issuing, a series of regulations which deal with the production, consumption, use, and treatment of ozone-depleting chemicals.

II. Section 613—Federal Procurement

Among the regulations that EPA must issue to address the use of ozone-depleting substances is a rule requiring federal agencies to modify their procurement regulations to maximize the use of safe alternatives to ozone-depleting substances and otherwise conform those regulations with the Clean Air Act's policies and requirements regarding ozone protection. This rule is required by section 613 of the Act which states: "Not later than 18 months after the enactment of the Clean Air Act Amendments of 1990, the Administrator, in consultation with the Administrator of the General Services Administration and the Secretary of Defense, shall promulgate regulations requiring each department, agency, and instrumentality of the United States to conform its procurement regulations to the policies and requirements of this Title and to maximize the substitution of safe alternatives identified under section 612 for class I and class II substances. Not later than 30 months after the enactment of the Clean Air Act Amendments of 1990, each department agency and instrumentality of the United States shall conform its procurement regulations and certify to the President that its regulations have been modified in accordance with this section." Today's proposed rule would impose that requirement. As required by the statute, EPA is consulting with the General Services Administration and with the Department of Defense in developing this rule.

The aim of today's regulation is the establishment of affirmative procurement programs in all agencies which will maximize the substitution of safe alternatives to ozone-depleting substances and further the other policies and requirements of title VI.

Federal procurement is in general governed by the Federal Acquisition Regulation ("FAR"). The FAR is prepared, issued and maintained jointly by the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration. Revisions to the FAR are issued through two councils, the Defense Acquisition Regulatory Council, and the Civilian Agency Acquisition Council. See generally 48 CFR subparts 1.1 and 1.2. In addition, many but not all federal agencies have promulgated regulations to supplement the FAR, which appear at 48 CFR parts 2 through 63.

The rule proposed today would require each federal agency to amend its procurement regulations in title 48 (or, where it has no such regulations at present, to adopt new regulations) to conform with the requirements and policies of title VI of the Clean Air Act (including, but not limited to, certain policies and requirements specified in this rule), and to direct that purchasing of safe substitutes to ozone-depleting substances will be maximized to the extent practicable.

At the same time, EPA will be working with the councils responsible for amending the FAR, and with the Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget, to amend the FAR itself in a similar manner. If the FAR can be amended in this fashion, there would be no need for individual agencies subject to the FAR to adopt regulations, and the rule proposed today would relieve them of the need to do so in that event.

Some agencies that fall within the term "department, agency or instrumentality of the United States" as defined in today's proposed rule are not subject to the FAR. Each such entity will be required to adopt its own regulation as provided in today's proposed rule. The entities most clearly affected in this way are the Postal Service, the Postal Rate Commission, the Senate, House of Representatives, and the Architect of the Capitol, all of which do not fall within the scope of the FAR. Nothing in section 613 expressly excludes such entities, and while the focus of section 613 is on procurement, the term "department, agency or instrumentality" is used elsewhere in the Act in context where there would be no reason to limit it to agencies subject to the FAR (most notably, in 42 U.S.C. 7418(a), where it is made clear that all three branches of the federal government are included). Absent some specific narrowing of the term (as in 42 U.S.C. 7418(b), where only the executive branch is specified), EPA believes the term "department, agency or instrumentality of the United States" should be read to include all agencies and establishments under all three branches.

A practical concern has been identified that decisions about what to purchase, or decisions on specifications for items to be purchased, are generally made by officials other than those who carry out the procurement process. Therefore, the personnel who are familiar with and implement "procurement regulations" are not in most cases the personnel who are in a position to change the substantive purchases of federal agencies. Therefore,

in implementing section 613, EPA has considered how to reconcile the statute's requirement that "procurement regulations" be amended with the aim of affecting substantive purchasing decisions.

EPA has concluded that in accordance with the statute, the requirement to maximize the substitution of ozone-depleting substances and to otherwise conform to title VI should be placed in agency procurement regulations. However, as the implementation of that requirement will fall primarily on persons other than those who manage the procurement process, each agency should take the steps necessary to ensure that officials responsible for substantive purchasing decisions are aware of, and properly implement, the requirements.

The promulgation of regulations under title VI is not the only means through which EPA expects to affect federal use of ozone-depleting substances. In order to assist agencies in amending their Procurement policies, practices and procedures and in implementing the resulting required policy changes, EPA is developing informational materials and model policies designed to assist government agencies in meeting these requirements. In addition, as new regulations on these matters are issued, new alternatives become available, or new chemicals are added to the list of controlled substances, EPA will inform each department or agency of any new requirements in this area. These EPA outreach activities are being coordinated by the Stratospheric Protection Division in the Office of Atmospheric Programs, Office of Air and Radiation. Agencies interested in assistance in developing their procedures related to ozone-depleting substances should contact Peter Voigt, (202) 233–9185, for additional information. EPA views this outreach effort as critical to making the regulation proposed today truly effective.

EPA is aware that a number of Federal agencies have already made significant efforts to phase out the use of ozone-depleting substances. For example, the Department of Defense (DoD) has issued Directive 6050.9 establishing the policies and responsibilities for managing CFCs and halons within DoD. Similarly, the General Services Administration has issued interim policy guidelines to provide direction on phasing out the use of ozone-depleting substances in the acquisition of new equipment, as well as in the repair of existing HVAC equipment. Nothing in the rule proposed today should require agencies to alter such efforts, and EPA encourages agencies to phase out their use of ozone-depleting substances as expeditiously as possible. Part of EPA's outreach program will be to identify federal efforts such as these which may help to serve as models for other agencies.

III. Other Requirements of Title VI of the Clean Air Act

Because the rule requires all agencies to conform their procurement regulations to the whole range of ozone protection policies and requirements, familiarity with many of the other regulations to be issued by EPA is important. Provisions of Title VI particularly relevant to today's proposed rule include the following:

(1) Phaseout of the Production and Importation of Controlled Substances (Sections 604, 605, and 606);

(2) Recycling and Reduction in Emissions of Ozone-depleting Substances (Section 608);

(3) Servicing of Motor Vehicle Air Conditioners (Section 609);

(4) Bans on Nonessential Products Containing Ozone-depleting Substances (Section 610);

(5) Labeling of Products Made with or Containing Controlled Substances (Section 611); and

(6) Safe Alternatives Policy (Section 612).

Familiarity with those requirements and policies will be essential to the development of agency regulations and practices under this rule. Therefore, a more detailed description of the proposed regulations follows.

1. Sections 604, 605, and 606—Phaseout of Ozone-depleting Substances

Section 604 and 605 of the Act place production and consumption limits on class I and class II ozone-depleting chemicals respectively. The same sections also require the phasing out of the production and consumption of these chemicals. Section 606 requires the Administrator of EPA to accelerate the phaseout of these chemicals if: (1)—"the Administrator determines that a more stringent schedule may be necessary to protect human health and the environment"—; (2)—"the Administrator determines that such a more stringent schedule is practicable"—; or (3)— "the Montreal Protocol is modified to include a schedule to control or reduce production, consumption, or use of any substance more rapidly than the applicable schedule under this title".

The phaseout of the class I substances addressed in today's rule is governed by regulations contained in 40 CFR part 82. EPA anticipates that the present rule will be amended by similar regulations that accelerate the phaseout of these substances and include the class II chemicals in the phaseout schedule. An accelerated phaseout will soon be proposed in response to recent scientific findings and to changes in the Montreal Protocol. The proposal would phase out halons by January 1, 1994 and CFCs, carbon tetrachloride, halons, and methyl chloroform by January 1, 1996. In addition, HBFCs will be added and scheduled for phaseout on January 1, 1996, and methyl bromide will be added and scheduled for phaseout on January 1, 2000. HCFCs will also be scheduled for phaseout, beginning with HCFC 141b on January 1, 2003.

The phaseout requirements of section 604, 605, and 606, and the regulations to be promulgated thereunder, do not bear directly on the purchase of goods and services; rather, they are directed at the production, import and export of class I and class II substances. Obviously, however, the phaseout of the production and imports of these substances will affect the ability of federal agencies to obtain these substances and products containing or made with them, and familiarity with the phaseout is important for agency officials making purchasing decisions. At the same time, compliance with today's proposed rule will reduce the demand for such products by federal agencies; therefore, this rule complements the phaseout requirements.

As the availability of the substances is increasingly and rapidly reduced, it is also critical that agencies take steps to convert existing equipment and processes to the use of alternatives and substitutes in order to assure compliance with the impending regulatory deadlines under title VI of the Act. Given the proposed schedules for the accelerated phaseout, it is vital that such efforts be conducted as quickly as possible.

Further, the accelerated phaseout proposal will also address the phaseout of certain HCFCs on a schedule which is based on the ozone depletion potential of some of these specific chemicals. The faster phaseout of these substances is proposed as a result of longer term concerns regarding ozone depletion, and the actual or anticipated availability of non-ozone-depleting substitutes. These substances are at this time used primarily as substitutes for CFCs in refrigeration and cooling systems and insulation.

The proposed accelerated phaseout rule also contains provisions for considering exemptions for the manufacture of these substances for

essential uses after the phaseout. In a separate notice, EPA provides information regarding the requirements for and the procedures to be followed in applying for an "essential use" exemption. Copies of this notice can be obtained by writing or calling the information contact listed in that proposed regulation. It should be noted that while the Act allows exceptions, there is no guarantee that such exceptions will be granted. Such exemptions, if any are granted, must be authorized by the Montreal Protocol as well as by title VI.

2. Section 608—National Recycling and Emission Reduction Program

Section 608 requires the Administrator of EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of ozone-depleting substances during the service, repair, or disposal of appliances and industrial process refrigeration. Under section 608, EPA will promulgate regulations to limit emissions of controlled substances to the "lowest achievable level" and to maximize the recapture and recycling of these substances taking into consideration technical feasibility and cost effectiveness. The requirements of section 608 include two stages: (1) Regulations covering class I and class II substances used or disposed of during the service and disposal of air conditioning and refrigeration equipment; and (2) regulations covering all other uses of class I and class II substances.

In addition to mandating an earlier effective date for regulations requiring recycling of class I refrigerants, section 608 specifically prohibits deliberate venting of both class I and class II refrigerants during service and disposal of air conditioning and refrigeration equipment, effective July 1, 1992. "De minimis" releases associated with good faith efforts to recycle are exempt from the prohibition.

EPA plans to implement section 608 in three phases. The first phase is the development of refrigerant recycling and safe disposal requirements. EPA research indicates that in all air conditioning or refrigeration sectors, emissions during servicing and disposal of equipment account for between 50 and 94 percent of total emissions during the life cycle of the equipment. Recycling requirements will reduce these emissions. In the next phase of rulemaking, EPA will explore and provide guidance on Lowest Achievable Emissions Levels (LAELs) for those sectors where leakage during use accounts for a significant percentage of total emissions. The third and final phase, if undertaken, may encompass regulations for recapture, recycling, and conservation of non-refrigerant applications of class I and class II compounds.

In developing additional guidance on "the lowest achievable level" of emissions, the Agency will focus on those actions facilitating an orderly transition from class I and then class II compounds while minimizing economic impacts.

This guidance will be issued in coordination with the on-going regulatory program, the impact of the current excise tax on the use of these chemicals and the production phase-down schedules and phaseout dates established under sections 604 and 606.

At this time EPA believes that continued use of class I substances in existing equipment through recycling can serve as a useful bridge to alternative products while minimizing disruption of the current capital stock of equipment, preventing costly early retirement of equipment. Agencies will need to be aware of this as they develop their procurement policies.

The requirements of section 608, and the regulations promulgated thereunder, apply to federal agencies independently of today's proposed rule. In addition, compliance with section 608 is a requirement of the procurement regulation being proposed today.

3. Section 609—Servicing of Motor Vehicle Air Conditioners

Section 609 was established to control the release of refrigerant during servicing of motor vehicle air conditioners. Although each automobile has a relatively small refrigerant charge, it is estimated that motor vehicle air-conditioners consumed over 48,000 metric tons of CFC–12 in 1989. This amounts to 21.3 percent of total CFC use in the United States.

The section provides that any person repairing or servicing motor vehicle air conditioners (MVACs) for consideration must properly use refrigerant recycling equipment that has been approved by EPA. All such persons must be properly trained and certified. For small entities, the requirements of this section are delayed until January 1, 1993. After January 1, these small entities must obtain approved refrigerant recycling equipment and so certify to the Administrator.

The section 609 final rule, published on July 14, 1992, in the Federal Register (57 FR 31242), and codified at 40 CFR 82.30 through 82.42, established standards for refrigerant recycling equipment and proper use of such equipment. The rule also established the criteria for technician certification programs and the standard for recycling equipment. Two independent testing organizations were approved by EPA to verify that the equipment meet the established standards. The Agency maintains the list of approved equipment.

The sale or distribution in interstate commerce of any class I or class II substance suitable for use in a motor vehicle air-conditioning system in small containers (less than 20 pounds) is also prohibited. The only exception is for sales or distribution to persons servicing motor vehicle air conditioners for consideration in compliance with all the above requirements.

The requirements of section 609, and the regulations promulgated thereunder, apply to federal agencies independently of today's proposed rule. Therefore, in servicing, replacing or retrofitting their vehicle fleets, agencies need to be cognizant of these requirements. However, compliance with these regulations will reduce the need for agencies to purchase class I substances.

Agency regulations adopted pursuant to today's proposed rule should specifically prohibit the purchase of substances whose sale is prohibited under section 609, except when they will be used by persons employed to service vehicles. Furthermore, agencies would be required to make compliance with section 609 and the regulations promulgated thereunder a condition of any contract involving the performance or a service activity subject to section 609.

4. Section 610—Nonessential Products Containing Ozone-depleting Substances

Section 610 of the Act requires EPA to "identify nonessential products that release class I substances into the environment (including any release during manufacture, use, storage, or disposal) and prohibit any person from selling or distributing any such product, or offering any such product for sale or distribution, in interstate commerce." Specific products to be prohibited include "chlorofluorocarbon-propelled plastic party streamers and noise horns" and "chlorofluorocarbon-containing cleaning fluids for noncommercial electronic and photographic equipment."

EPA is further required to prohibit at a minimum "other consumer products" that are determined to release class I substances and to be nonessential. In determining whether a product is nonessential, EPA is instructed to consider: "the purpose or intended use of the product, the technological

availability of substitutes for such product and for such class I substance, safety, health, and other relevant factors."

Section 610 also states that after January 1, 1994, "it shall be unlawful for any person to sell or distribute, or offer for sale or distribution, in interstate commerce—(A) any aerosol product or other pressurized dispenser which contains a class II substance; or (B) any plastic foam product which contains, or is manufactured with, a class II substance."

On January 15, 1993, the final regulation on the ban of nonessential products releasing class I ozone-depleting substances and requiring elimination of emissions from products using class I substances was published in the **Federal Register**. See 40 CFR 82.60 through 82.68.

EPA believes that, unlike the class I ban, the class II ban is self-effectuating. EPA believes it has the authority to issue regulations as necessary to implement the class II ban under sections 610 and 301 of the Clean Air Act, as amended, and may do so at a later date. More specific information on the use of class II substances in foams and aerosols will be collected in the near future.

Section 610 and the regulations promulgated thereunder apply to the sale, rather than the purchase, of nonessential products. However, to ensure conformity with the requirements and policies of title VI, agency regulations adopted under today's proposed rule must prohibit the purchase of any product whose sale has been prohibited under section 610. Of course, to carry out the more general requirement of maximizing the purchases of safe alternatives to ozone-depleting substances, agencies will have to consider their need to purchase all such products, not just those prohibited under section 610.

5. Section 611—Labeling

Section 611 and the regulations promulgated thereunder specifies labeling requirements beginning on May 15, 1993, for containers of class I and class II substances, and products containing class I substances. See 40 CFR 82.100 through 82.124. The Act stipulates that "no container in which a class I or class II substance is stored or transported, and no product containing a class I substance, shall be introduced into interstate commerce unless it bears a clearly legible and conspicuous label stating: 'Warning: Contains [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere.'"

Section 611 also mandates that this same labeling requirement "shall apply to all products manufactured with a process that uses such class I substances unless the Administrator determines that there are no substitute products or manufacturing processes that: (A) Do not rely on the use of such class I substance, (B) reduce the overall risk to human health and the environment, and (C) are currently or potentially available." The label for products manufactured with a class I substance is required to state: "Warning: Manufactured with [*insert name of substance*], a substance which harms public health and environment by destroying ozone in the upper atmosphere."

After May 15, 1993, the labeling requirement shall apply to products containing or manufactured with a class II substance "if the Administrator determines, after notice and opportunity for public comment, that there are substitute products or manufacturing processes: (A) That do not rely on the use of such class II substance, (B) that reduce the overall risk to human health and the environment, and (C) that are currently or potentially available." The label is required to have the same wording as that for class I substances. After 2015, these labeling requirements shall apply to *all* products containing or manufactured with a class I and a class II substance.

Section 611 and the regulations thereunder apply to the labeling of products and containers, not to their purchase. However, to ensure conformity with the regulations and policies of title VI, agency regulations adopted under today's proposed rule must make compliance with section 611 a specification for the purchase of any product or container to which section 611 applies.

6. Section 612—Safe Alternatives Policy

Section 612 states as a policy that "to the extent practicable, class I and class II substances shall be replaced by chemicals, product substitutes, or alternative manufacturing processes that reduce overall risks to human health and the environment." Substitutes can be either existing or new, currently or potentially available.

Section 613 specifically refers to the substitution of safe alternatives identified under section 612 for class I and class II substances. Thus, the above policy, as well as the other requirements of section 612, are relevant to today's proposed rule.

Under section 612 EPA will publish a list of unacceptable substitutes and a list of corresponding acceptable alternatives as well as establish a petition process to add or remove substances from either of the two lists. Under section 612(c) EPA will also promulgate regulations making it unlawful to replace any class I or class II substance with any substitute which may present adverse effects to human health or the environment, where an alternative to such a replacement has been identified that reduces overall risk and is currently or potentially available. Based on language in section 612, a substitute is defined as any new or existing chemical, product substitute, or alternative manufacturing process that is currently or potentially available.

In evaluating substitutes, "overall risk" characterization will consider such factors as: Chlorine loadings; ozone-depletion potential; toxicity to human health and ecosystems; air, water, and solid/hazardous waste impacts; exposure to workers, consumers, the general population, and aquatic organisms; flammability; and global-warming potential. Substitutes will be evaluated by use and in the context of: (1) The risks the substitute is replacing (i.e., the risks of continued use of the class I or class II substances) and (2) the risks from other substitutes. Given the particular application of a substance, impact on human health and the environment can vary significantly. Thus, risk characterizations will be specific for each use sector.

In addition, economic feasibility must be assessed to ensure that the initial list of acceptable substitutes includes alternatives that are available and affordable in the near term. Economics must also be considered in evaluating new substitutes against alternatives that were previously identified as acceptable. The Agency believes that such an examination will help to minimize uncertainty in the marketplace and encourage many to substitute sooner rather than later.

EPA plans to issue a Notice of Proposed Rulemaking for the Significant New Alternatives Program (SNAP) soon. This proposal will include an initial list of acceptable and proposed unacceptable substitutes based on the results of the risk characterizations. At the same time as the final SNAP rule, EPA will also publish its revised list of acceptable substitutes and final promulgation of the list of prohibited substitutes. Any substitute not reviewed by the Agency prior to the promulgation of the rules implementing the SNAP program will need to be submitted for review under the SNAP program once it becomes effective.

It should also be noted that, while the statute specifically refers to section 612, EPA expects to take steps that will facilitate substitution even before risk characterizations have been completed and safe alternatives have been identified by EPA under section 612. To ensure that agencies are in a position to proceed rapidly as soon as safe alternatives are identified, EPA will, through its outreach effort, keep agencies informed of available alternatives and of their status under the review process.

Today's rule is closely related to section 612, as the purchase of safe alternatives is expected to be the principal means through which agencies will minimize their purchase of ozone-depleting substances. To ensure conformity with section 612, the regulations adopted by agencies pursuant to today's proposed rule must require agency officials both to comply with the policy in section 612(a) of maximizing the use of alternatives to class I and class II substances in making agency purchasing decisions, and to comply with the regulations to be issued by EPA identifying unacceptable substitutes.

IV. Implementation of Section 613—Federal Procurement

Section 613 does not require EPA to issue detailed rules specifying the manner in which federal agencies are to reduce their use of ozone-depleting substances or related products, and substitute safer alternatives, and EPA is not attempting to do so here. Rather, EPA expects that these details will be addressed when agencies adopt and subsequently implement the regulations or other procedures required by today's rule. Because of the immense variety and complexity of agency decisions regarding which products to purchase to meet its mission, as well as the variety of agency procurement processes, EPA does not consider it appropriate to specify what agencies must adopt in greater detail than is specified here. As described above, EPA plans, and has already initiated, an extensive outreach effort to provide assistance to other agencies in their efforts.

Translating the general requirement of this proposed rule into actual purchasing decisions will of course require further efforts by agencies to identify alternatives to currently used products, or to find entirely different approaches that avoid the need to purchase such products altogether. For example, agencies may change the specifications for cleaning requirements of electronic components from solvents that are ozone-depleting to cleaning agents that are safe, non ozone-depleting substitutes. Based upon these efforts (which EPA expects to assist through outreach activities), agencies will need to develop internal plans, policies or guidance that will ensure compliance with the general requirement of maximizing the use of safe substitutes for ozone-depleting substances. However, EPA does not consider it appropriate to specify in this rule the precise nature of how such policies should be developed and structured in each agency, which is a matter of internal management.

It is important to note that today's regulation is intended to cover new contracts and purchasing agreements, as well as contract renewals. Because the availability of Class I and Class II substances will be severely limited in the near future, agencies may also need to renegotiate existing contracts to ensure the successful conversion to substances and processes which do not require the use of controlled substances in time to comply with the requirements of Title VI of the Act.

It should also be noted that, consistent with the policy stated in section 612 of the Act, these proposed regulations require that agencies maximize the substitution of safe alternatives "to the extent practicable". This approach is intended to give agencies flexibility to deal with conditions resulting from the phaseout of ozone-depleting substances. However, EPA expects that very substantial changes from current practices will be practicable. EPA's view is based on a number of factors, including the following:

(1) EPA is proposing to accelerate the phaseout of the class I ozone-depleting substances (58 FR 15014) so that U.S. production and imports would, in most cases, cease by January 1, 1996. As a result, equipment and procedures which currently use ozone-depleting substances will, in a preponderance of cases, need to be modified because such substances will simply not be available.

(2) Compliance with other requirements of the Clean Air Act, such as the recycling programs under sections 608 and 609, will reduce the need for purchases of ozone-depleting substances. Many agencies have already taken significant steps toward this objective.

(3) Recent data published by NASA and measured in September 1992 by the Total Ozone Mapping Spectrometer indicates that the annual cycle of ozone depletion is starting earlier in 1992 than ever, and that the extent of depletion is 15% greater than the previous year. Therefore, activities to control ozone-depleting substances have become even higher national and international priorities. This is reflected by the recent meeting of the Parties to the Montreal Protocol during which it was decided to add substances to the phaseout listing and to significantly accelerate the phaseout.

It is important to note that maximizing the substitution of safe alternatives "to the extent practicable" will require agencies to take steps beyond simply changing the products they purchase. Agencies must also examine their existing operations and develop procedures to reduce the use of products containing, or manufactured with, ozone-depleting substances.

Not all agency practices that result in the potential release of ozone-depleting substances are within the scope of section 613. For example, existing equipment containing CFCs may be a potential source of releases, and neither section 613, nor today's proposed rule, require that such equipment be immediately taken out of service. However, to the extent that the maintenance of such equipment requires the purchase of replacement CFCs, it would be affected by this rule, and agencies should adopt appropriate policies that maximize the substitution of safe alternatives to ozone-depleting substances. In addition, where the purchase of ozone-depleting substances is unavoidable, agencies are strongly encouraged under today's proposal to further the broad aims of Title VI. For example, agencies using halons should purchase them from halon banks when that is possible.

To the extent that the operation of existing equipment does not incur purchases or substitution and is thus beyond the scope of today's proposed rule, but otherwise involves the use of ozone-depleting substances, EPA urges agencies to adopt policies designed to minimize the release of ozone-depleting substances and to maximize recycling and conservation of the substances as required by section 608 of the Act. For example, agencies dismantling halon systems might consider recycling these chemicals and providing them to halon banks. In addition, agencies are required to comply with the prohibitions on venting of section 608 of title VI of the Act and any forthcoming requirements regarding recycling and emission control under that section.

EPA recognizes that there often are substantial financial requirements inherent in making conversions to processes that do not use ozone-depleting substances. The practicability feature of the rule will allow such considerations to be taken into account

in selecting methods to reduce demand for ozone-depleting substances. The immense variety of equipment and processes used by the Federal government make it impossible for EPA to specify in detail what types of actions must be taken and what lengths of time should be allowed to take them. EPA also notes that time is a consideration in determining what is practicable. What is impracticable in the short term may be feasible over a longer period of time. However, EPA expects that procurement practices will be adopted which reduce use of ozone-depleting substances on a very aggressive schedule.

V. Request for Comment

EPA is requesting comment on all aspects of this proposed rulemaking. In addition, comment is specifically sought on the scope of the regulatory requirements as outlined here. Further, the Agency is soliciting information on the cost to federal agencies of complying with the requirements of title VI as required by section 613 of the Act. This cost information is requested in order to assist EPA in preparing a document dealing with the costs of complying with these requirements.

VI. Summary of Supporting Analyses

A. Executive Order 12291

Executive Order (E.O.) 12291 requires the preparation of a regulatory impact analysis for major rules, defined by the order as those likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, federal or state government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

EPA has determined that this proposed regulation does not meet the definition of a major rule under E.O. 12291 and has therefore not prepared a formal regulatory impact analysis. EPA believes that this proposed rule will not have a significant economic impact since its underlying purpose is to prepare Federal agencies to deal with the phaseout of ozone-depleting substances required under Title VI of the Clean Air Act.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal Agencies examine the impact of their regulations on small entities. Under 5 U.S.C. 604(a), whenever an agency is required to publish a general notice of proposed rulemaking, it must prepare and make available for public comment an initial regulatory flexibility analysis (RFA). Such an analysis is not required if the head of an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, pursuant to 5 U.S.C. 605(b).

The Administrator believes that the regulation, if promulgated, will not have a significant impact on a substantial number of small entities and has concluded that a formal RFA is unnecessary.

This proposed regulation requires Federal agencies to conform their procurement regulation to the regulations, policies and procedures governing the phaseout of ozone-depleting substances. EPA believes that most companies in industries supplying goods and services made with or containing ozone-depleting substances to the Federal government are already aware of the requirements of title VI. Therefore, these companies are prepared to offer alternatives to meet amended or new federal procurement specifications required by this regulation. This proposed regulation will primarily affect government procurement specifications, which small entities respond to at a cost level appropriate to the goods and services purchased.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule are being submitted for approval to the General Services Administration under the Paperwork Reduction Act, 44 U.S.C. 3501 et sec. An Information Collection Request document is being prepared by EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch, EPA, 401 M St., SW. (PM–223Y), Washington, DC 20460 or by calling (202) 260–2740.

The reporting burden on federal government agencies for this collection is estimated to vary from 10 to 20 hours per response with an average of 15 hours per response, including time for reviewing procurement regulations, gathering the information needed, and completing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Chief, Information Policy Branch, EPA, 401 M St., SW., (PM–223Y), Washington, DC 20460; and to the General Services Administration, Authorizations Branch (KMAS), 18th and F Streets, NW., Washington, DC 20405, marked "Attention Desk Officer for EPA." The final Rule will respond to any GSA or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 82

Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Imports, Ozone layer, Reporting and recordkeeping requirements, Stratospheric ozone.

Dated: April 1, 1993.

Carol M. Browner,

Administrator.

Title 40, Code of Federal Regulations, part 82, is proposed to be amended to read as follows:

PART 82—PROTECTION OF STRATOSPHERIC OZONE

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

2. A new subpart F is added to read as follows:

Subpart F—Federal Procurement

Sec.

82.200 Purpose and scope.
82.202 Definitions.
82.204 Federal agency procurement.
82.206 Reporting requirements.

Subpart F—Federal Procurement

§ 82.200 Purpose and scope.

(a) The purpose of this subpart is to require federal departments, agencies, and instrumentalities to adopt procurement regulations which conform to the policies and requirements of title VI of the Clean Air Act as amended, and which maximize the substitution in federal procurement of safe alternatives, as identified under section 612 of the Clean Air Act, for class I and class II substances.

(b) This subpart applies to each department, agency, and instrumentality of the United States.

§ 82.202 Definitions.

(a) *Class I substance* means any substance designated as class I by EPA pursuant to 42 U.S.C. 7671(a), including but not limited to chlorofluorocarbons, halons, carbon tetrachloride and methyl chloroform.

(b) *Class II substance* means any substance designated as class II by EPA pursuant to 42 U.S.C. 7671(a), including but not limited to hydrochlorofluorocarbons.

(c) *Controlled substance* means a class I or class II ozone-depleting substance.

(d) *Department, agency and instrumentality of the United States* refers to any executive department, military department, or independent establishment within the meaning of 5 U.S.C. 101, 102, and 104(1), respectively, any wholly owned Government corporation, the United States Postal Service and Postal Rate Commission, and all parts of and establishments within the legislative and judicial branches of the United States.

§ 82.204 Federal agency procurements.

(a) No later than [one year from the date of final publication], each department, agency and instrumentality of the United States shall conform its procurement regulations to the requirements and policies of title VI of the Clean Air Act, 42 U.S.C. 7671–7671g. Each such regulation shall provide, at a minimum, the following:

(1) That purchases of class I and class II substances, or of products made with or containing such substances, shall maximize the substitution of safe alternatives to the use of ozone-depleting substances to the maximum extent practicable, either by the substitution of safe alternatives, or by the purchase of products made with or containing safe alternatives, identified under 42 U.S.C. 7671k;

(2) That, consistent with the phaseout schedules for ozone-depleting substances, no purchases shall be made of class II substances, or products containing class II substances, for the purpose of any use prohibited under 42 U.S.C. 7671d(c);

(3) That all active or new contracts involving the performance of any service or activity subject to 42 U.S.C. 7671g or 7671h or regulations promulgated thereunder include, or be modified to include, a condition requiring the contractor to ensure compliance with all requirements of those sections and regulations;

(4) That no purchases shall be made of products whose sale is prohibited under 42 U.S.C. 7671h, except when they will be used by persons employed to service vehicles, and no purchase shall be made of nonessential products as defined under 42 U.S.C. 7671i;

(5) That proper labeling under 42 U.S.C. 7671j shall be a specification for the purchase of any product subject to that section.

(b) For agencies subject to the Federal Acquisition Regulation, 48 CFR part 1, amendment of the FAR consistent with this subpart, shall satisfy the requirement of this section.

§ 82.206 Reporting requirements.

(a) No later than [one year after the effective date of this rule], each agency, department, and instrumentality of the United States shall certify to the Office of Management and Budget that its procurement regulations have been amended in accordance with this section.

(b) Certification by the General Services Administration that the FAR has been amended in accordance with this section shall constitute adequate certification for purposes of all agencies subject to the FAR.

[FR Doc. 93–8394 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 86

[AMS–FRL–4613–1]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Nonconformance Penalties for Heavy-Duty Engines and Heavy Duty Vehicles, Including Heavy Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Re-opening of comment period.

SUMMARY: This action announces the re-opening of the comment period for the Notice of Proposed Rulemaking (NPRM) entitled "Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Nonconformance Penalties for Heavy-Duty Engines and Heavy Duty Vehicles, Including Heavy Light-Duty Trucks", which was published on May 29, 1992 (57 FR 22675). The original public comment period for this action ended on June 29, 1992. In the NPRM, EPA proposed that a Nonconformance Penalty (NCP) be offered for particulate matter (PM) standards applicable to 1994 and later model year petroleum fueled urban bus heavy-duty diesel engines (HDDEs) and for heavy-duty engines for use in vehicles other than urban buses.

On March 24, 1993 (58 FR 15781), EPA published the final 1994 urban bus regulation setting the PM standard at 0.07 g/BHP-hr, rather than the proposed 0.05 g/BHP-hr. In light of the less stringent standard, EPA is reconsidering the need for offering NCPs for the 1994 and later model year urban bus HDDE standard. The comment period for this proposed rule will be re-opened for two weeks in order to accommodate comments as to whether or not the generic NCP criteria continue to be met for the finalized urban bus standard.

DATES: Comments on this issue will be accepted until April 26, 1993.

ADDRESSES: Interested parties may submit written comments to Public Docket Number A–91–29 at the Air Docket of the U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Erb, Manufacturers Operations Division (6405J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Telephone: (202) 233–9259.

SUPPLEMENTARY INFORMATION: For further information on this matter, please refer to EPA's May 29, 1992 Notice of Proposed Rulemaking at 57 FR 22675.

Dated: April 5, 1993.

Michael H. Shapiro,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 93–8463 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NMFS issues this notice that the North Pacific Fishery Management Council (Council) has submitted Amendment 28 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) for Secretarial review and is requesting comments from the public. Copies of the amendment may be obtained from the Council (see **ADDRESSES**).

DATES: Comments on the FMP amendment should be submitted on or before June 7, 1993.

ADDRESSES: Comments on the FMP amendment should be submitted to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, Alaska, 99802 (Attn: Lori Gravel), or delivered to the Federal Building Annex, suite 6, 9109 Mendenhall Mall Road, Juneau, Alaska.

Copies of the amendment and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis prepared for the

amendment are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510 (telephone 907–271–2809).

FOR FURTHER INFORMATION CONTACT: Jessica Gharrett, National Marine Fisheries Service, Alaska Region, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments received during the comment period in determining whether to approve the plan or amendment.

Amendment 28 would establish three new management districts within the Aleutian Islands Subarea of BSAI. In addition, the proposed rule would amend the Final 1993 Specifications of Groundfish acceptable biological catch (ABC) and total allowable catch (TAC) for Atka mackerel, and make technical corrections and clarifications to existing regulations. Establishment of new subareas will increase management flexibility in apportioning TACs an disbursing fishing effort. Amendment of the Atka mackerel ABC and TAC would facilitate an increase in Atka mackerel TAC by apportionment from the nonspecific operational reserve, if proposed Amendment 28 is implemented in 1993, and if such an increase is recommended by the Council. Technical amendments to regulations are necessary to incorporate the proposed districts, and to improve accuracy and clarity.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: April 6, 1993.

David S. Crestin,

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

[FR Doc. 93–8451 Filed 4–7–93; 11:18 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 68
Monday, April 12, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Sensors Technical Advisory Committee; Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held May 6, 1993, 9 a.m., in the Herbert C. Hoover Building, room 1617M(2), 14th Street & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Election of Chairman.
4. Discussion of export controls affecting sensors & lasers:
   - National security controls
   - Nuclear nonproliferation controls
   - Missile nonproliferation controls.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, BXA/EA/OAS—room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3) of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6020, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482–2583.

Dated: April 7, 1993.

Lee Ann Carpenter,

Acting Director, Technical Advisory Committee Unit.

[FR Doc. 93–8491 Filed 4–9–93; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

U.S. Automotive Parts Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

ACTION: Closed meeting of U.S. Automotive Parts Advisory Committee.

SUMMARY: The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) Reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will receive briefings on the status of ongoing consultations with the Government of Japan and will discuss specific trade and sales expansion programs related to U.S.-Japan automotive parts policy.

DATE AND LOCATION: The meeting will be held on Tuesday, May 4, 1993 from 10 a.m. to 5 p.m. at the Department of Commerce in Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Stuart Keitz, Office of Automotive Affairs, Trade Development, Main Commerce, room 4036, Washington, DC 20230, telephone: (202) 482–0719.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on June 24, 1991, pursuant to section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b (c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, room 6020, Main Commerce.

Dated: March 31, 1993.

Henry P. Misisco,

Director, Office of Automotive Affairs.

[FR Doc. 93–8407 Filed 4–9–93; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Endangered Species; Permits

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

ACTION: Notice of receipt of application for scientific research permit (P770#65).

Notice is hereby given that the National Marine Fisheries Service, Northwest Fisheries Science Center has applied in due form for a Permit to take endangered and threatened species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR parts 217–227).

The applicant requests authorization to study the effects of dissolved gas supersaturation on fish downstream from the Bonneville Dam. The applicant will be taking run-of-the-river outmigrating juvenile salmon, of which one may be a listed Snake River spring/summer chinook juvenile (*Oncorhynchus tshawytscha*).

Written data or views, or requests for a public hearing on this application should be submitted to the Director, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., room 8268, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices by appointment:

Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., suite 8268, Silver Spring, MD 20910 (301/713–2322); and

Environmental and Technical Services Division, National Marine Fisheries Service, 911 North East 11th Ave., room 620, Portland, OR 97232 (503/230–5400).

Dated: April 5, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources.

[FR Doc. 93–8444 Filed 4–9–93; 8:45 am]

BILLING CODE 3510–22–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposed Amendments Relating to Speculative Position Limits for the Standard & Poor's 500 Stock Price Index Futures and Option Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has submitted proposed amendments to the speculative position limits for the Standard & Poor's 500 Stock Price Index (S&P 500) futures and option contracts. The proposed amendments will increase the all-months-combined speculative position limits in the subject futures and option contracts to 10,000 contracts from 5,000 contracts. The Exchange intends to make the changes effective for all existing and newly listed contract months immediately following receipt of notice of approval from the Commission.

Acting pursuant to the authority delegated by Commission Regulation 140.96, the Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined that publication of the proposed amendments is in the public interest and will assist the Commission in considering the views of interested persons.

DATES: Comments must be received on or before May 12, 1993.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed speculative position limit amendments for the S&P 500 futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Blake Imel, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254–3201.

SUPPLEMENTARY INFORMATION: Currently, the CME's rules specify that no speculative trader in the S&P 500 futures and option contracts shall own or control a combination of futures and futures-equivalent option contracts net on the same side of the market in all contract months combined that exceeds 5,000 contracts. The Exchange proposes to double this speculative position limit to 10,000 contracts. The Exchange indicates that the proposed increase in the speculative limit is appropriate given the increase in open interest in the S&P 500 futures and option contracts that has occurred over the last five years. The Exchange also indicates that a number of the CME's member firms and their customers have requested such a change.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254–6314.

The materials submitted by the CME in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC, on April 6, 1993.

Gerald Gay,

Director, Division of Economic Analysis.

[FR Doc. 93–8460 Filed 4–9–93; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., chapter 35).

Title, Applicable Form, and OMB Control Number: Industrial Security Inspection Report; DD Form 696; OMB No. 0704–0014

Type of Request: Extension

Number of Respondents: 12,453

Responses Per Respondent: 1.626

Annual Response: 20,249

Average Burden Per Response: 8.33 hours
Annual Burden Hours: 168,674
Needs and Uses: The information collected by this form provides a uniform method for obtaining data relevant to safeguarding classified information. The purpose of the inspection is to determine compliance of contractors participating in the Defense Industrial Security Program with regulations governing the protection of classified information.
Affected Public: Individuals or households; businesses or other for-profit; non-profit institutions; small businesses or organizations
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Mr. Edward C. Springer. Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503
DOD Clearance Officer: Mr. William P. Pearce. Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302

Dated: April 6, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–8448 Filed 4–9–93; 8:45 am]

BILLING CODE 3810–01–M

Office of the Secretary

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group C (Mainly Opto-Electronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday and Wednesday, 27–28 April 1993.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Gerald Weiss, AGED Secretariat, 2011 Crystal Drive, One Crystal Park, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: April 7, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–8449 Filed 4–9–93; 8:45 am]

BILLING CODE 3810–01–M

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, 27 April 1993.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Warner Kramer, AGED Secretariat, 2011 Crystal Drive, suite 307, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Public Law No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1988)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly, this meeting will be closed to the public.

Dated: April 7, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–8450 Filed 4–9–93; 8:45 am]

BILLING CODE 3810–01–M

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, May 4, 1993; Tuesday, May 11, 1993; Tuesday, May 18, 1993; and Tuesday, May 25, 1993, at 2 p.m. in room 800, Hoffman Building #1, Alexandria, Virginia.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Public Law 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy/Equal Opportunity) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, room 3D264, The Pentagon, Washington, DC 20310.

Dated: April 7, 1993.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–8489 Filed 4–9–93; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Availability for Exclusive or Non-Exclusive Licensing of Device for Surface Heated Water Intake Trash Rack

AGENCY: U.S. Army Cold Regions Research and Engineering Laboratory, DOD.

ACTION: Notice of availability.

SUMMARY: In accordance with 37 CFR 404.7(a)(2)(i), announcement is made of the availability of a device for licensing (patent applied for COE Case No. 253). This patent will be assigned to the United States of America as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Peter D. Smallidge, U.S. Army Corps of Engineers, Cold Regions Research and Engineering Laboratory, ATTN: CECRL–PP, 72 Lyme Road, Hanover, NH 03755–1290, (603) 646–4445.

SUPPLEMENTARY INFORMATION: The device pertains to trash racks such as those used on the water intakes of hydroelectric power plants and municipal water supplies and incorporates heating elements which prevent the formation of frazil ice accumulations. The device provides prevention of frazil ice accumulation which may be included in the design of new trash racks or retrofitted into existing racks. Prevention of frazil ice accumulation is achieved by heating the forward or upstream faces of the bars of the trash rack while limiting heat flow rearwardly into the bars during the periods of icing conditions.

Under authority of section 11(a)(2) of the Federal Technology Transfer Act of 1986 (Pub. L. 99–502) and section 207 of title 35, United States Code, the Department of Army, as represented by the U.S. Army Cold Regions Research and Engineering Laboratory (USACRREL), wishes to license the above-mentioned technology to any party interested in manufacturing and selling trash racks covered by the above-mentioned patent in process.

Each interested party is requested to submit a licensing proposal. The proposals for manufacturing and selling the equipment covered by the above-mentioned patent will be evaluated using the following criteria:

1. Presentation of the proposer's plan to manufacture and market trash racks employing the technology described in the patent application.
2. Presentation of the proposer's plan to manufacture and market trash racks employing the technology described in the patent application.
3. Capability to manufacture and market surface heated trash racks.
4. Extent to which USACRREL heated trash rack designs will be duplicated.
5. Time required to bring the item to market and production rate.
6. Royalty or other compensation.
7. Technical capability.
8. Small business.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–8400 Filed 4–9–93; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Change of Date for the Environmental Compliance Training Course in Washington, DC

April 7, 1993.

As previously noticed on January 19, 1993, the Office of Pipeline and Producer Regulation (OPPR) will present an environmental compliance training course in Washington, DC. The date for this session has been changed from June 8, 9, and 10 to June 15, 16, and 17. Details on location and time may be obtained from Ms. Donna Connor or Mr. George Willant at the number listed below.

The complete list of courses currently scheduled is:

Denver, CO—April 20, 21, and 22, 1993
Houston, TX—May 4, 5, and 6, 1993
Washington, DC—June 15, 16, and 17, 1993

Current registrants will be contacted to confirm their attendance in light of this change. Any other organization or individual interested in participating in this course should preregister by sending in a written request to Mr. George Willant at: Ebasco Environmental, 211 Congress Street, Boston, MA 02110–2410.

The request should include names, addresses and telephone numbers. Session attendance will be limited to 200, and only one set of course materials will be available per preregistered attendee.

Additional information may be obtained from Mr. John Leiss at (202) 208–1106 or Ms. Connor or Mr. Willant of Ebasco at (617) 451–1201.

Previous sessions have been very popular, so we urge those interested in attending to send in their written request early. Preregistration must be received at least 30 days prior to the date of the session.

Lois D. Cashell,

Secretary.

[FR Doc. 93–8453 Filed 4–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP92–137–000 (Phase II)]

Transcontinental Gas Pipe Line Corp.; Informal Settlement Conference

April 6, 1993.

Take notice that an informal settlement conference will be convened in this proceeding on April 15, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Donald A. Heydt at (202) 208–0740, Joanne Leveque at (202) 208–5705, or Lorna J. Hadlock at (202) 208–0737.

Lois D. Cashell,

Secretary.

[FR Doc. 93–8427 Filed 4–9–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–283–000]

Williston Basin Interstate Pipeline Co.; Application

April 6, 1993.

Take notice that on April 1, 1993, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, suite 300, Bismark, North Dakota 58501, filed in Docket No. CP93–283–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in its Elk Basin and Baker Storage Fields to provide additional firm storage

deliverability for Montana-Dakota Utilities Company (Montana-Dakota), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin asserts that it held an open season from March 1 through March 12, 1993, seeking requests for long term firm commitments for additional firm storage deliverability. Montana-Dakota requested that Williston Basin install facilities to increase its available firm maximum daily withdrawal volumes by 95,000 Mcf, it is stated. Williston Basin avers that no other complete requests were received.

Williston Basin states that the additional storage deliverability will be made available under the terms and conditions of Rate Schedule FS–1 of its FERC Gas Tariff as proposed in Docket No. RS92–13–000.

To provide this requested additional service, Williston Basin proposes to drill three to five primary storage wells and one observation well and appurtenant facilities in the Elk Basin Storage Field and to construct and operate a new compressor station and appurtenant facilities in the Baker Storage Field. Williston Basin estimates the total cost of the proposed facilities to be $11,005,816.

Williston Basin requests that its application be considered in phases so that a preliminary determination on the non-environmental issues may be issued promptly and in advance of an order concerning final environmental determination. Williston Basin asserts that this would provide adequate lead time for ordering equipment and purchasing rights-of-way.

Any person desiring to be heard or to make any protests with reference to said application should on or before April 27, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–8426 Filed 4–9–93; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–59961; FRL–4578–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 9 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–58, March 21, 1993.
Y 93–59, March 8, 1993.
Y 93–60, March 9, 1993.
Y 93–61, 93–62, March 11, 1993.
Y 93–63, March 14, 1993.
Y 93–64, March 21, 1993.
Y 93–65, March 22, 1993.
Y 93–66, March 24, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, 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 following notices contains information extracted from the nonconfidential version of the submissions provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office (TS–790), also known as the TSCA Nonconfidential Information Center (NCIC), ET–G102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–58

Importer. MTC America, Inc.

Chemical. (G) Benzophenone polyimide resin.

Use/Import. (G) Molding powder, matrix resin for composite. Import range: Confidential.

Y 93–59

Manufacturer. Essential Industries Inc.

Chemical. (G) Aliphatic polyurethane dispersion.

Use/Production. (S) To be formulated into architectural coatings. Prod. range: Confidential.

Y 93–60

Importer. Confidential.

Chemical. (G) Saturated copolyester.

Use/Import. (G) Binder-resin. Import range: Confidential.

Y 93–61

Importer. Confidential.

Chemical. (G) Polypropyline glycol acetate.

Use/Import. (G) Lubricant. Import range: Confidential.

Y 93–62

Importer. MTC America, Inc.

Chemical. (S) Poly (propylene glycol), 1,3-butadiol, 2-ethyl-2 (hydroxymethyl), 1,3-propanediol with toluene 2–4-diisocyanate and 2-butaneoxime.

Use/Import. (S) Two component black urethane coating. Import range: Confidential.

Y 93–63

Manufacturer. Polym - Inc.

Chemical. (G) Acrylic copolymer.

Use/Production. (S) Additive for improvement of surface appearance of industrial coatings. Prod. range: 60,000–200,000 kg/yr.

Y 93–64

Manufacturer. Mace Adhesives & Coatings, Co., Inc.

Chemical. (G) Polyester, polymer with polyisocyanatoalkanes, and polyaminoalkanes.

Use/Production. (S) Industrial textile coatings binder. Prod. range: 2,000–5,000 kg/yr.

Y 93–65

Manufacturer. Confidential.

Chemical. (G) Carboxylic polybutadiene.

Use/Production. (S) Flexographic printing plates. Prod. range: Confidential.

Y 93–66

Manufacturer. Confidential.

Chemical. (G) High solids coconut alkyd resin.

Use/Production. (S) Baked metal finishes. Prod. range: Confidential.

Dated: April 5, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–8467 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59962; FRL–4581–3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 2 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–67, March 24, 1993.

Y 93–68, March 25, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, 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 following notices contains information extracted from the nonconfidential version of the submissions provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the TSCA Public Docket Office (TS–790), also known as the TSCA Nonconfidential Information Center (NCIC), ET–G102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–67

Manufacturer. E.I. Du Pont De Nemours & Company, Inc.

Chemical. (G) Ethylene copolymer.

Use/Production. (G) Adhesive; open, nondispersive use. Prod. range: Confidential.

Y 93–68

Manufacturer. Teknor Apex Company.

Chemical. (S) Adipic acid; Modiol TM glycol; iso decyl alcohol.

Use/Production. (S) Plasticizer. Prod. range: 682,000–784,000 kg/yr.

Dated: April 5, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–8465 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–51817; FRL–4579–6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 55 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93–565, 93–566, 93–567, 93–568 May 16, 1993.

P 93–569, 93–570, 93–571, May 17, 1993.

P 93–572, 93–573, 93–574, 93–575, 93–576, 93–577, 93–578, May 18, 1993.

P 93–579, 93–580, 93–581, 93–582, 93–583, 93–584, 93–585, 93–586, May 19, 1993.

P 93–587, 93–588, 93–589, 93–590, 93–591, 93–592, 93–593, 93–594, 93–595, 93–596, 93–597, May 22, 1993.

P 93–598, May 23, 1993.

P 93–599, 93–600, 93–601, May 22, 1993.

P 93–602, 93–603, 93–604, 93–605, 93–606, 93–607, May 23, 1993.

P 93–608, 93–609, 93–610, May 24, 1993.

P 93–611, May 25, 1993.

P 93–612, 93–613, 93–614, 93–615, 93–616, May 26, 1993.

P 93–617, 93–618, May 29, 1993.

P 93–619, May 31, 1993.

Written comments by:

P 93–565, 93–566, 93–567, 93–568 April 16, 1993.

P 93–569, 93–570, 93–571, April 17, 1993.

P 93–572, 93–573, 93–574, 93–575, 93–576, 93–577, 93–578, April 18, 1993.

P 93–579, 93–580, 93–581, 93–582, 93–583, 93–584, 93–585, 93–586, April 19, 1993.

P 93–587, 93–588, 93–589, 93–590, 93–591, 93–592, 93–593, 93–594, 93–595, 93–596, 93–597, April 22, 1993.

P 93–598, April 23, 1993.

P 93–599, 93–600, 93–601, April 22, 1993.

P 93–602, 93–603, 93–604, 93–605, 93–606, 93–607, April 23, 1993.

P 93–608, 93–609, 93–610, April 24, 1993.

P 93–611, April 25, 1993.

P 93–612, 93–613, 93–614, 93–615, 93–616, April 26, 1993.

P 93–617, 93–618, April 29, 1993.

P 93–619, May 1, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51817]" and the specific number should be sent to: Document Processing Center (TS–790), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. 201ET, Washington, DC, 20460 (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, 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 following notices contains information

extracted from the nonconfidential version of the submissions provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Public Docket Office (TS–790), also known as the TSCA Nonconfidential Information Center (NCIC), ET–G102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–565

Importer. Dow Corning Corporation.
Chemical. (S) Silicic acid (H4,SiO4), tetraethyl ester, reaction products with (2–(3(or 4)-=(chloromethyl)phenyl) ethyl) dimethylchlorosilane, ethoxytrimethylsilane, and hexamethyldisilazane.
Use/Import. (G) Electronic coating. Import range: 50–300 kg/yr.

P 93–566

Importer. Dow Corning Corporation.
Chemical. (S) Siloxanes and silicones, di-Me, 3–(2-hydroxyphenyl) propyl-terminated.
Use/Import. (G) Silicone plastics additive. Import range: 300–1,000 kg/yr.

P 93–567

Manufacturer. Confidential.
Chemical. (G) Toluene diisocyanate polyether polyol polymer.
Use/Production. (G) Component in a two component polyurethane. Prod. range: Confidential.

P 93–568

Manufacturer. Confidential..
Chemical. (G) Poly substituted piperidine.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 93–569

Importer. Confidential.
Chemical. (G) Dialkyl dimethyl, ammonium naphthalene sulfonate-formaldehyde condensate.
Use/Import. (G) Ingredient of an adjuvant to pesticides. Import range: Confidential.
Toxicitty Data. Acute static 4.3 mg/l 96h carp. Mutagenicity. negative (guinea pig).

P 93–570

Manufacturer. Engelhard Corporation.
Chemical. (S) Cobalt tungsten titanium buff rutile.
Use/Production. (S) A colorant in polymeric (poly vinyl chloride) construction material for decorative and concentrate. Prod. range: Confidential.

P 93–571

Manufacturer. Confidential.
Chemical. (G) Modified fluorinated acrylic resin.
Use/Production. (G) Textile processing agent. Prod. range: Confidential.

P 93–572

Importer. BASF Corporation.
Chemical. (G) Calcium diketone.
Use/Import. (G) Stabilizer for plastics. Import range: Confidential.

P 93–573

Manufacturer. Confidential.
Chemical. (G) Aromatic sulfonic acid ester.
Use/Production. (G) Textile processing agent. Prod. range:

P 93–574

Importer. Marubeni Specialty Chemicals, Inc. *Chemical.* (G) Encapsulated isopentane.
Use/Import. (S) Source of light weight-filler for UPE, PVC, sol & thermal expandable microsphere used in ink. Import range: 5,000–50,000 kg/yr.

P 93–575

Manufacturer. Confidential.
Chemical. (G) Water-reducible alkyd resin.
Use/Production. (S) Industrial water-thinned coatings. Prod. range: Confidential.

P 93–576

Importer. Confidential.
Chemical. (G) Benzenealkanenitrile, 4-alkyl-alpha, alpha-dialkyl.
Use/Import. (S) Raw material use in fragances perfume, colognes, cosmetics, soaps, detergents, household products. Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal: LD50 > 2.0 mg/kg (rabbit). Acute static: 53 mg/l 96h (daphnia magna). Eye irritation mild (rabbit). Skin irritation slight (rabbit). Mutagenicity: negative.

P 93–577

Manufacturer. Confidential.
Chemical. (G) Modified rosin ester, sodium potassium salt.
Use/Production. (S) Resin for printing ink. Prod. range: Confidential.

P 93–578

Manufacturer. Fairmount Chemical Company, Inc.
Chemical. (G) Methylene-Bis-Benzotriazole.
Use/Production. (G) Contained use-component of manufactured article formulation range 0.1–2.0% by weight. Prod. range: Confidential.

P 93–579

Manufacturer. H.B. Fuller Company.
Chemical. (G) Polyester isocyanate polymer.
Use/Production. (S) Adhesives (all). Prod. range: Confidential.

P 93–581

Manufacturer. H.B. Fuller Company.
Chemical. (G) Polyester isocyanate polymer.
Use/Production. (G) Adhesives (all). Prod. range: Confidential.

P 93–582

Manufacturer. H.B. Fuller Company.
Chemical. (G) Polyester isocyanate polymer.
Use/Production. (S) Adhesives (all). Prod. range: Confidential.

P 93–583

Importer. Confidential.
Chemical. (G) Modified polydimethylsiloxane, aqueous emulsion.
Use/Production. (S) Textile finishing. Prod. range: 13,636–54,545kg/yr.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute static: 96h 274 mg/l (erachydanio rerio). Eye irritation none (rabbit). Skin irritation slight (rabbit).

P 93–584

Manufacturer. Confidential.
Chemical. (G) Acrylic copolymer, sodium salt.
Use/Production. (G) Water treatment. Prod. range: Confidential.

P 93–585

Importer. Confidential.
Chemical. (G) Carboxylated styrene acrylic copolymer.
Use/Import. (G) Glass sizing. Import range: Confidential.

P 93–586

Manufacturer. Dow Corning Corporation.
Chemical. (G) Alkyl hydrogen siloxane.
Use/Production. (S) Silicone crosslinker. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Eye irritation none (rabbit). Skin irritation none (rabbit).

P 93–587

Importer. Confidential.
Chemical. (G) Polymer of vinyl alcohol, vinyl.
Use/Import. (S) Resin for molded plastics other use (adhesive binders). Import range: Confidential.
Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Skin irritation mild (rabbit).

P 93–588

Manufacturer. Confidential.

Chemical. (G) Epoxy amine adduct.
Use/Production. (G) Crosslinking agent for epoxy compounds. Prod. range: Confidential.

P 93–589

Manufacturer. Polym Inc.
Chemical. (G) Heterocyclic amine salt.
Use/Production. (S) Additives to use in powder coating in order to reduce gloss. Prod. range: 50,000–200,000 kg/yr.

P 93–590

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Titanium IV (bis hydrogen, tris tridecyl) diphosphat-0 bis *n,n*-dimethylamino propyl methacylamide salt.
Use/Production. (S) Surfactant. Prod. range: Confidential.

P 93–591

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Zirconium IV bis hydrogen, tris (bis tridecyl) diphosphato-O bis *n,n*-dimethylamino propyl methacrylamide salt.
Use/Production. (S) Surfactant. Prod. range: Confidential.

P 93–592

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Oxy bis titanium IV tris (tridecyl) phosphato-O.
Use/Production. (S) Polyolefin processing aid, dispersion aid, labs, styrenic resin processing aid surfactant. Prod. range: Confidential.

P 93–593

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Oxy bis zirconium IV tris (tridecyl) phosphato-O.
Use/Production. (S) Polyolefin processing aid, dispersive aid, labs styrenic resin processing aid and surfactant. Prod. range: Confidential.

P 93–594[11]*Manufacturer.* Pi-Tech, Inc.
Chemical. (S) Oxy bis titanium IV tris (ethoxylated butyl) phosphato-O.
Use/Production. (S) Polyolefin processing aid, dispersive aid, labs styrenic resin processing aid and surfactant. Prod. range: Confidential.

P 93–595

Manufacturer. Pi-Tech, Inc.
Chemical. (S) Oxy bis zirconium IV tris (ethoxylated butyl) phosphato-O.
Use/Production. (S) Polyolefin processing aid, dispersive aid, labs styrenic resin processing aid and surfactant. Prod. range: Confidential.

P 93–596

Manufacturer. Pi-Tech.
Chemical. (S) Titanium IV (ethoxylated) butanolato, tris (dodecyl) phenyl sulfonato-O.
Use/Production. (S) Surfactant. Prod. range: Confidential.

P 93–597

Importer. Huls America, Inc.
Chemical. (G) Aliphatic amine-blocked polycycloaliphatic isocyanate.
Use/Import. (S) Industrial coatings for plastic and metal substances. Import range: Confidential.

P 93–598

Manufacturer. Henkel Corporation.
Chemical. (S) Pentaerythritol, ester with isononanoic acid and C_6–C_{12} fatty acid.
Use/Production. (S) Lubricant basestock for industrial oils. Prod. range: 5,000–80,000 kg/yr.

P 93–599

Manufacturer. Henkel Corporation.
Chemical. (S) Pentaerythritol, ester with isononanoic acid C_8–C_{10} fatty acids
Use/Production. (S) Lubricant basestock for industrial oils. Prod. range: 5,000–60,000 kg/yr.

P 93–600

Manufacturer. Henkel Corporation.
Chemical. (S) Pentaerythritol, ester with 3,5,5-trimethyl hexanoic acid and C_6–C_{12} fatty acids.
Use/Production. (S) Lubricant basestock for industrial oils. Prod. range: 5,000–80,000 kg/yr.

P 93–601

Manufacturer. Henkel Corporation.
Chemical. (S) Pentaerythritol, ester with 3,5,- trimethylbenxanoic acid C_8–C_{10} fatty acids.
Use/Production. (S) Lubricant basestock for industrial oils. Prod. range: 5,000–80,000 kg/yr.

P 93–602

Importer. Confidential.
Chemical. (G) Modified acrylic acid copolymer.
Use/Import. (G) Industrial dispersant/antiscalant. Import range: Confidential.

P 93–603

Manufacturer. Confidential.
Chemical. (G) Tannin, acetylated compound with formaldehyde and cyclohexylamine.
Use/Production. (S) Waste water coagulent. Prod. range: 44,500–120,000 kg/yr.
Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Acute static. 96h 39.1 mg/l (oncohrynchus mykiss). Mutagenicity: negative.

P 93–604

Manufacturer. Minnesota Mining & Manufacturing Company.
Chemical. (G) Caprolactone polyurethane.
Use/Production. (G) Coating. Prod. range: Confidential.

P 93–605

Manufacturer. Confidential.
Chemical. (G) Substituted polyoxyalkylene-*M*-toluidine.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93–606

Manufacturer. Amspec Chemical Corporation.
Chemical. (G) Antimony carboxylate.
Use/Production. (S) Catalyst for the manufacture of polyethylene terephthalate (PET). Prod. range: Confidential.

P 93–606

Manufacturer. Ciba-Geigy Corporation.
Chemical. (S) Benzenesulfonic acid, 2-amino-4–[(4-amino-6-chloro 1,3,5-triazine-yl)amino)-, monosodium salt.
Use/Production. (S) Site-limited dye intermediate. Prod. range: 30,500–61,000 kg/yr.

P 93–608

Manufacturer. Confidential.
Chemical. (G) Dialkyl dithiphosphate.
Use/Production. (S) Site limited intermediate. Prod. range: Confidential.

P 93–609

Importer. Confidential.
Chemical. (G) Acetamide derivative.
Use/Import. (G) Coloring agent. Import range: Confidential.

P 93–610

Importer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Import. (G) Open nondispersive use. Import range: Confidential.

P 93–611

Importer. Confidential.
Chemical. (G) Modified styrenated acrylate methacrylate polymer.
Use/Import. (G) Component of spray applied coating. Import range: 125–750 kg/yr.

P 93–612

Manufacturer. Confidential.
Chemical. (G) Modified silica.
Use/Production. (S) Textile processing aid. Prod. range: Confidential.

P 93–613

Importer. Huls America Inc.
Chemical. (G) Polyester of aromatic/aliphatic polybasic acids and alkanediols.
Use/Import. (S) Hot melt adhesive for industries adhesive web/film. Import range: Confidential.

P 93-614

Manufacturer. Minnesota Mining & Manufacturing Company.

Chemical. (G) 1,-Methylene bis(isocyanatobenzene)polymer.

Use/Production. (G) Adhesive. Prod. range: Confidential.

P 93-615

Manufacturer. Confidential.

Chemical. (G) Anhydride copolymer - acrylate half ester.

Use/Production. (S) Electronic photoresist, solder mask, printing plates, and printing inks. Prod. range: Confidential.

P 93-616

Manufacturer. Confidential.

Chemical. (G) Styrene modified acrylic polymer.

Use/Production. (S) Binder for architectural coatings. Prod. range: Confidential.

P 93-617

Manufacturer. Eastman Kodak Company.

Chemical. (G) Aromatic nitro substituted naphthalene carboxamide.

Use/Production. Chemical intermediate. Prod. range: 250-2,700 kg/yr.

Toxicity Data. Acute oral: LD50 > 2,000 mg/kg (rat). Acute dermal. 2,000 mg/kg (rabbit). Eye irritation none (rabbit). Skin irritation none (rabbit). Skin sensitization negative (guinea pig).

P 93-618

Manufacturer. Eastman Kodak Company.

Chemical. (G) Aromatic nitro substituted naphthalene carboamide.

Use/Production. (S) Chemical intermediate. Prod. range: 200-2,200 kg/yr.

Toxicity Data. Acute oral: LD50 2,000 mg/kg (rat). Acute dermal 2,000 mg/kg (rabbit). Eye irritation none (rabbit). Skin irritation none (rabbit). Skin sensitization negative (guinea pig).

P 93-619

Manufacturer. Moore Research Center.

Chemical. (S) Terephthaloye chloride; isophthaloyl chloride; diethylenetriamine.

Use/Production. (S) Carbonless paper coatings. Prod. range: 440,000-1,000,000 kg/yr.

Dated: April 5, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93-8466 Filed 4-9-93; 8:45 am]

BILLING CODE 6560-50-F

[AD-FRL-4609-4]

Proposed Model Standards and Techniques For Control of Radon in New Buildings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice publishes for public review and comment proposed Model Construction Standards and Techniques for Control of Radon in New Buildings, as required by section 304 of title III of the Toxic Substances Control Act (15 U.S.C. 2664). These model standards and techniques are designed to prevent or reduce the potential for elevated levels of indoor radon in newly constructed buildings and are provided for use by national code development organizations, states, and local jurisdictions as they develop and enforce building codes for radon control specifically applicable to their regional and local requirements.

DATES: Written comments on the proposed Model Construction Standards and Techniques should be submitted by June 11, 1993. Comments submitted after this date will also be considered, to the degree possible.

ADDRESSES: All written comments must be identified with the document control number "A-93-18" and be submitted in duplicate to: EPA Air Docket (LE-131), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Comments received on this document will be available for reviewing and copying from 8:30 a.m. to 12 p.m. and 1:30 p.m. to 3:30 p.m., Monday through Friday, excluding legal holidays, in room M-1500, first floor Waterside Mall, at the address given above.

FOR FURTHER INFORMATION CONTACT: David M. Murane, Environmental Protection Agency, Radon Division (6604J), 401 M St., SW., Washington, DC 20460, Telephone: 202/233-9442. Requests for copies of this Notice and the supporting Cost-Benefit Analysis should also be directed to this contact.

SUPPLEMENTARY INFORMATION:

I. Authority

Title III of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2661 et seq.) was enacted on October 28, 1988. Section 304 of the TSCA requires the Administrator of the Environmental Protection Agency to develop model construction standards and techniques for controlling radon levels within new buildings. To the maximum extent possible, these model standards and techniques should be developed with the assistance of organizations involved in establishing national building construction standards and techniques and be made available in draft for public review and comment. Subsequently, the Administrator shall work to ensure that organizations responsible for developing national model building codes and authorities which regulate building construction within states or political subdivisions within states, adopt the Agency's model standards and techniques.

II. Background

A. Radon Occurrence and Health Risks

Radon was first recognized as a cause of lung cancer in underground miners in the 1930's. In 1955, the International Commission on Radiological Protection established the first occupational health standard for radon exposure in mines. In 1970, homes in the United States were found to have elevated levels of radon when uranium mill tailings were used as fill dirt or when built on reclaimed phosphate mining land. Starting in 1984, it became increasingly evident that homes could have elevated indoor radon levels caused by naturally occurring radium in the underlying soil and rock. In the past 5 years, homes with elevated radon levels have been found throughout the United States. Surveys indicate that up to 6 million homes may have radon levels above EPA's action level guideline of 4 pCi/L. Based on studies by the National Academy of Sciences and other scientific organizations, it is believed that from 7,000 to 30,000 lung cancer deaths per year can be attributed to exposure to elevated levels of indoor radon. There are also data that indicate a synergistic effect between radon exposure and smoking which places smokers at a higher risk. Several studies are underway that could provide new information and insights on the magnitude of the radon health risks. Information from these studies will be considered and, if appropriate, incorporated by EPA in any future revisions of the radon health risk estimates.

B. Initial Steps by EPA To Develop New Construction Guidance

The initial efforts to reduce public exposure to radon were focused on educating the public on the health risk and identifying methods for reducing radon levels in existing homes. "A Citizen's Guide to Radon" and "Radon Reduction Methods, A Homeowner's Guide" were published in 1986 to meet those needs.

It was also recognized that long-term risk reduction would be facilitated if

new homes built each year were constructed with radon-resistant features. In 1987, EPA and the National Association of Homebuilders jointly published "Radon Reduction in New Construction, An Interim Guide" to provide initial guidance for builders. At the same time, a number of research projects were initiated to validate the interim guidance and to identify additional construction techniques that would be effective in reducing radon levels in new buildings. In 1988, EPA published its first technical guide on "Radon-Resistant Residential New Construction" and, in early 1991, published an updated version of this technical guidance titled, "Radon-resistant Construction Techniques for New Residential Construction."

C. EPA's Goals in Preparing a Model Standard

EPA believes that the ultimate success of a Model Construction Standard will be determined by reaching six basic goals:

1. The Standard should meet the requirements established by Congress in the 1988 Indoor Radon Abatement Act (Title III of the TSCA (15 U.S.C. 2661 et seq.)).
2. The Standard should result in significant radon risk reduction in newly constructed homes.
3. The recommended construction techniques should be technologically achievable, and readily implementable by the nation's builders.
4. The provisions of the Standard should be cost-effective for both homebuilders and homebuyers. A significant aspect of all cost considerations is the underlying fact that steps taken to reduce radon entry during construction are less costly than retrofitting mitgation systems into homes after they are built.
5. The provisions of the Standard should be readily adoptable and/or adaptable by the national Model Code Organizations and by officials who administer building codes at the state and local level.
6. The Standard should initially be targeted for adoption in areas of highest radon risk potential.

D. Summary of Public Participation

On February 1, 1989, EPA convened a Standards and Codes Work Group consisting of over 45 representatives of governmental and building industry organizations. This Work Group developed the outline and essential features for a first draft of the proposed Model Standard. EPA then established a cooperative agreement with the National Institute of Building Sciences (NIBS) to provide broadly based technical assistance in the development and review of the specific building standards and techniques. The NIBS Radon Project Committee ultimately involved over 90 representatives of building code organizations, state and local governmental agencies, and private sector companies. This committee met five times to review and modify the draft document and provided a summary report which was used by EPA as one of the sources in developing the model building standards and techniques outlined in section 9.0. The NIBS Report is available by submitting a request to: The National Institute of Building Sciences, 1201 L Street, NW, suite 400, Washington, DC 20005, telephone 202/289–7800. Other support documents, including the "Analysis of Options For EPA's Model Standards For Controlling Radon in New Homes," July, 1992, are available through EPA.

III. Overview of Technical Analysis

A. Radon Reduction Technology

The three methods for controlling radon levels in new buildings involve the use of (1) passive systems, (2) active systems, and (3) stack effect reduction systems.

1. A *passive system* includes use of all the construction techniques that create physical barriers to radon entry, reduce the forces that draw radon into a building, and facilitate post-construction radon removal if the barrier techniques prove to be inadequate. A "passive system," as used in this Standard, includes an open vent pipe stack that carries radon from the area beneath the slab or from under the plastic sheeting covering the crawl space floor to an exit point above the roof. It also includes roughed-in electrical wiring to facilitate future installation of both a fan in the vent stack and a system failure warning device, if radon tests indicate that further radon reduction is necessary. The natural convective flow of air upward in the vent pipe draws soil gas containing radon from beneath the slab and vents it to the outside. Limited research has demonstrated that passive systems are effective in reducing indoor radon concentrations below the current EPA action level in the large majority of homes where post-construction radon levels would otherwise have been slightly elevated. EPA believes that radon reductions of about 50 percent are achievable using a passive system approach alone. In those cases where the radon source strength in the underlying soil is greatly elevated, the performance of the passive stack can easily be improved by adding a fan to achieve indoor radon levels below EPA's prescribed guideline of 4 pCi/L. The cost to builders of installing a passive system, as described above, is in the range of $350 to $500 per house depending on its design and size. In cases where builders use passive barrier techniques for controlling moisture entry and for energy conservation, use of the passive radon control systems will add little, if any, added construction costs.

2. An *active system* involves use of all the passive control techniques described above plus installation of an electric fan in the vent pipe stack and a system failure warning device. The active system creates a positive suction on the area beneath the slab or under the plastic sheeting covering the crawlspace floor. This results in the pressure of soil gas containing radon beneath the slab to be lower than the air pressure in the home, creating a positive pressure barrier to radon entry. Because of the active mechanical ventilation of the sub-slab space, an active system can reduce indoor radon concentrations to their lowest achievable levels and is effective even in the presence of very high radon concentrations in the underlying soils. Based on limited Agency research, active radon control systems have reduced radon levels to below 2 pCi/L in over 90 percent of new homes. Levels below 4 pCi/L are achieved in nearly all new homes. The cost of installing the additional components of an active radon control system (the electric fan and system failure warning device) is about $250. The total cost of an active system is therefore in the range of $600 to $750. These costs will also vary depending on the design and size of the house. As in the passive system, costs applied to radon control may be lower in areas where builders are already using barrier techniques for moisture control and energy conservation. There are additional annual costs to homeowners for operating and maintaining active radon control systems. EPA estimates these costs to be in the range of $40 to $75.

3. *Stack Effect Reduction* involves installation of features that prevent or reduce the flow of warm conditioned air upward and out of the building superstructure. This upward movement of air actually can draw soil gas containing radon into the lower levels of a building. These reduction techniques include such methods as providing makeup air for combustion appliances, closing air passages around chimney flues and plumbing chases, and sealing openings around attic access doors. This

approach is not in itself an effective method for achieving significant reduction in indoor radon levels. However, when combined with the barrier techniques and a passive or active vent stack installation, stack effect reduction techniques can contribute to reducing radon entry. These techniques also contribute to the fire resistance of a building and can reduce heating and cooling costs.

B. Radon Potential Map

With the assistance of the U.S. Geological Survey (USGS), the Agency has developed a "Map of Radon Zones" designed to help state and local governments target certain data collection and outreach programs. It is also designed to help building code officials determine areas where adoption of radon-resistant construction codes may be advisable.

1. The methodology for developing the Agency's Radon Potential Map involved categorization of distinct geologic provinces based on indoor radon measurements, geology, aerial radioactivity, soil parameters, and house foundation types. These geologic provinces were then overlayed on county maps and each county was assigned to a Zone based on the geologic province that is predominant in that county. Counties located within a geologic province that had predicted average indoor radon screening levels greater than 4 pCi/L were assigned to Zone 1. Counties with predicted average screening levels between 2 and 4 pCi/L were assigned to Zone 2, and counties below an average of 2 pCi/L were assigned to Zone 3.

2. The Agency considered a number of approaches for applying the Model Construction Standards in the different radon potential Zones. The basic approaches examined included: Application of active systems nationwide or only in Zone 1, application of passive systems nationwide or only in Zone 1, and application of some mixture of passive and active systems in Zones 1 and 2.

3. EPA expects to publish the Radon Potential Map in the Spring of 1993. Copies of the draft map are now available from EPA headquarters (contact Sharon White, 202–233–9457). Copies of the final map will be available from state radon program offices, EPA headquarters, and EPA Regional offices.

C. Cost-Benefit Considerations

Each of the approaches for applying the Model Standards was analyzed in a study titled, "Analysis of Options For EPA's Model Standards For Controlling Radon in New Homes," July, 1992, hereafter referred to as the Cost Benefit Analysis (CBA). The CBA compared the costs of installing and operating the recommended radon control systems with the benefits in risk reduction and energy conservation. This evaluation was done for each of the alternative approaches described in section B2 above.

Consistent with common EPA practices for estimating annual risk reductions from cancer-causing pollutants, EPA estimated the total number of lives saved in the population that will occupy new radon-resistant homes built over the time of the analysis (74 years) and then converted that total estimate into an average of lives saved per year. Such an approach to the analysis allows consistent comparison of the cost-effectiveness of the new construction standards with EPA's pollution control decisions in other programs.

It should be noted that many of the construction standards and techniques recommended in this document are included in current National Building Codes, the National Energy Code, or in ASHRAE Standards as techniques for reducing water infiltration or energy loss, or for maintaining acceptable indoor air quality. Applying these standard techniques as a means to control the levels of indoor radon simply adds a complementary function that does not conflict with the objectives of other indoor air quality programs within EPA. In addition, applying the recommended radon barrier and stack effect reduction techniques will result in significant long-term energy savings.

The provision of radon control systems involves cost considerations for both homebuilders and homebuyers. In the passive approach to radon control, there are no homeowner costs associated with operation and maintenance of a vent fan. The result is long-term radon risk reduction at a small initial cost which later results in savings due to improved energy efficiency. In fact, the analysis concludes that there are savings that accrue for each life saved when the passive approach is used, due to the added benefit of energy efficiency.

IV. Recommended Model Standard and Implementation Approach

A. Recommended Standard

The proposed Model Standard includes a codified presentation of construction methods and recommended procedures for their application. The Standard also includes scope and limitations sections, a listing of pertinent reference documents and terminology, a discussion of the principles for radon-resistant construction, and a summary of the construction techniques as applied to basement, slab-on-grade, and crawlspace foundations. The recommended construction method and recommended procedures for its application are contained in sections 7.0 and 8.0, and the specific construction techniques are listed in section 9.0. Model Code organizations, states, and local jurisdictions are encouraged to adopt those portions of the final Model Standard that are appropriate for their building code needs.

B. Implementation Approach

1. EPA considered five approaches for implementing the Model Standards and Techniques. These include: (1) Active systems in Zones 1 and 2, (2) active systems in Zone 1 only, (3) passive systems in Zones 1 and 2, (4) passive systems in Zone 1 only, and (5) a combination of active systems in Zone 1 and passive systems in Zone 2, plus a requirement to test and fix homes above the action level in Zone 2. Based on its analysis, EPA is proposing option (4). EPA believes that the use of passive radon control systems in areas of high radon potential (Zone 1), and the activation of those systems if necessitated by follow-up testing, is the best approach to achieving both significant radon risk reduction and cost-effectiveness in construction of new homes. EPA believes that this approach best accomplishes the goals identified by the Agency in Section II.C. Other approaches and their associated costs and benefits are explained in detail in the CBA.

The proposed Standards and Techniques meet the requirements established by Congress in the Indoor Radon Abatement Act. EPA worked to develop the Standard in cooperation with the National Institute of Building Sciences (NIBS), a Standards and Codes Workgroup, individual homebuilders, and the National Association of Home Builders (NAHB), and will work to have the Standard adopted by the National Model Code organizations, states, and local jurisdictions.

EPA believes that the implementation approach selected will result in significant risk reduction to the buyers of newly constructed homes since about 145,000 of the one million new homes built each year are in Zone 1. By applying the recommended approach, it is estimated that ultimately about 16 lung cancer deaths could be averted annually. In addition, as the Model Standard is adopted across the United States, the growing number of new

houses equipped with radon-resistant features will result in a cumulative increase in the number of lives saved each year. For example, after the first five-year period of fully implementing the Standard, the Agency estimates that, statistically, over 200 lives ultimately will be saved. (The methodology for calculating lives saved is included in section 5 of the CBA.)

These estimates are based only on the risk reduction achieved by the use of passive radon control systems in Zone 1. If all the new homes built in Zone 1 with passive radon-resistant features are tested for radon, and passive systems activated when elevated radon levels are still present, an estimated 3 to 4 additional lives would be saved annually. To achieve maximum risk reduction, all new homes in all areas should be tested.

The recommended construction techniques are technologically feasible and can be readily implemented by builders in the field. Agency research has demonstrated the effectiveness of the techniques, and they involve the use of standard contruction practices and materials readily available to builders in all geographical areas.

The provisions of the Standard and the recommended implementation program are cost-effective to both homebuilders and homebuyers. EPA believes this approach to controlling radon in new construction provides a balance between radon risk reduction and the cost to both homebuilders and homebuyers. The cost to builders to install a passive system is $350 to $500 per house. Even at the higher end of this range, a very favorable cost-benefit relationship results when these costs are compared to lung cancer deaths that may ultimately be averted. Due to the long-term energy savings achieved by using the recommended radon reduction techniques, the 16 lung cancer deaths ultimately averted yearly would be at a savings of about $440,000 per life saved.

With passive systems, there are no system operation costs to the homebuyer. However, if a home is tested, elevated levels of radon are found, and lower radon levels are desired, the passive system can be made significantly more effective in reducing radon levels by the addition of an electric fan. The installation of the fan and a system failure warning device would cost approximately $250 and the yearly operation costs of the system to the homebuyer would be about $40 to $75.

Building radon-resistant features into a new home during construction is extremely cost effective. It should be noted that the cost of reducing high radon levels in existing homes that do not contain these construction features can range from $800 to $2,500.

Finally, EPA believes the Standard can be readily adopted by the National Model Code organizations, states, and local jurisdictions that want to address the radon problem. The Agency has developed the Model Standard with a format and content that will assist in its adoption by the Model Code organizations. The Agency anticipates increasing support for this adoption from the building industry. Indeed, the National Association of Home Builders passed a resolution in January, 1992 that is supportive of the targeted approach taken in this proposed Model Standard. The expected acceptance and use of the Standard by builders will also contribute to its timely adoption by the National Model Code organizations and in the building codes and regulations of state and local jurisdictions.

2. Each of the other implementation options addressed in the Cost-Benefit Analysis offer certain advantages and disadvantages. Active radon control systems applied in both Zones 1 and 2 would result in greater risk reduction. However, these systems would provide limited benefits in the large number of new homes that would be below 4 pCi/L without any radon-resistant features installed. If targeted only to Zone 1, active systems would still be unnecessary in a large percentage of new homes. At this time, the Agency believes that the installation, operation, and maintenance costs of active systems outweigh the benefit of the greater risk reduction achieved by these systems. Similarly, the costs of installing passive radon control systems throughout Zones 1 and 2 were considered by the Agency to be too great because of the large number of homes that would receive no benefit in terms of radon risk reduction. EPA also concluded that a "mixed approach" (active systems in Zone 1; passive systems in Zone 2) was also not as cost effective as the recommended approach. Further explanation of the data leading to these conclusions is contained in the CBA. The CBA is available through the EPA contact listed at the beginning of this Notice.

V. Significant Issues

During development of the Model Standards, a number of significant issues were raised that warrant special consideration. Comments are specifically solicited on all of these issues.

The first relates to the effectiveness of passive systems in achieving average annual indoor radon levels below 4 pCi/L when applied in areas of high radon potential. For example, passive systems may be affected by climatic conditions. Although data available to the Agency indicates that passive systems will result in reductions of indoor radon levels, respondents are encouraged to provide any information that would serve to further quantify the effectiveness of passive systems in different house designs and in different geographical and climatic areas.

The second issue relates to questions concerning "stack effect" reduction techniques, the degree to which they contribute to radon reduction, and their contribution to building safety and energy conservation. Although widely used by many builders to enhance energy conservation, it is acknowledged that there are different views on the effectiveness of these techniques in reducing indoor radon levels. Some research has been done to quantify the specific impact of individual stack effect reduction techniques on radon entry. The Agency chose to include these techniques as a prescriptive requirement in the recommended construction method because the preliminary research indicates they do contribute to reducing radon entry, as well as producing significant energy savings and increased fire resistance. EPA welcomes any information on this topic.

A third issue relates to the degree that radon measurements made in a new home prior to occupancy will represent actual exposure of future occupants to radon. The Agency believes that all new homes should be tested, but a concern has been raised as to whether a measurement in a newly constructed unoccupied house can be used to reliably indicate the potential for elevated post-occupancy radon levels. For example, can the house be closed and the heating and cooling systems operated under normal conditions for a minimum of 12 hours prior to and during the radon test period? The Agency specifically solicits any information or quantitative analyses related to conditions existing in a newly constructed home versus an existing home that would influence radon levels.

A fourth issue concerns the need to ensure that new homes are tested for radon, especially homes with passive radon control systems in Zone 1, where, if high radon levels are found, greater risk reduction can be achieved by activation of the system. The Agency solicits information on methods that have been successful in increasing testing of new homes for radon.

A fifth issue relates to areas of very low radon potential where jurisdictions may not believe it advisable to adopt

any radon-resistant construction techniques or radon test requirements in their building codes. As a result, a small number of homes in these areas may have undetected elevated radon levels. EPA solicits suggestions on how to address this problem.

A final issue concerns the approaches that may be taken to achieve early adoption of the Model Standards by National Code Organizations and by local jurisdictions. In some jurisdictions, adoption has been facilitated by including language in the codes or regulations that absolves builders and building officials from liability if the required new construction standards and techniques are applied as dictated by such codes or regulations. EPA is especially interested in comments on that approach and in examples of other successful attempts to have model standards relating to environmental issues adopted by National Model Code Organizations or local jurisdictions.

While EPA requests comments on the entire document, the Agency has particular interest in comments relating to these issues. Respondents to this notice are also encouraged to provide comments on the overall energy impact of applying the model construction standards.

Following public review and comment on this proposed Standard, EPA will develop a Final Model Standard which will be published in the **Federal Register**.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

Model Standards and Techniques for Control of Radon in New Buildings

1.0 Scope

1.0.1 This document contains model building standards and techniques applicable to controlling radon levels in new construction intended for human occupancy, as defined by the respective Model Code Organizations.

1.0.2 The model building standards and techniques are also applicable to additions made to the foundations of existing buildings intended for human occupancy or when modifications are made to the blower capacity or ducting of the central air handling systems of existing buildings.

1.0.3 This document is not intended to be a building code nor to be adopted verbatim as a referenced standard.

1.0.4 It is intended that the building standards and techniques contained in section 9.0 of this document, the construction method in section 7.0, and the recommended procedures for applying the standards and construction method in section 8.0, serve as a model for use by the Model Code Organizations and authorities within states or other jurisdictions that are responsible for regulating building construction as they develop and adopt building codes, appendixes to codes, or standards and implementing regulations specifically applicable to their unique local or regional radon control requirements.

1.0.5 The preferential grant assistance authorized in section 306 (d) of the Indoor Radon Abatement Act of 1988 (TCSA, 15 U.S.C. 2666) will be applied for states where appropriate authorities who regulate building construction are taking action to adopt radon-resistant standards in their building codes.

1.0.6 Model building standards and techniques contained in this document are not intended to supersede any radon-resistant construction standards, codes or regulations previously adopted by local jurisdictions and authorities. However, jurisdictions and authorities are encouraged to review their current building standards, codes and/or regulations and their unique local or regional radon control requirements, and consider modifications, if necessary.

1.0.7 This document will be updated and revised as ongoing and future research programs suggest revisions of standards, identify ways to improve the model construction techniques, or when newly tested products or techniques prove to be equivalent to or more effective in radon control. Updates and revisions to the model building standards and techniques contained in section 9.0 will undergo an appropriate peer review.

1.0.8 EPA is committed to continuing evaluation of the effectiveness of the standards and techniques contained in section 9.0 and to research programs that may identify other more effective and efficient methods.

2.0 Limitations

2.0.1 When a combination of most of the model building standards and techniques listed under section 9.0 have been used to mitigate elevated radon concentrations in existing one- and two-family residential buildings, the radon levels in almost 95 percent of these buildings have been reduced to below 4 pCi/L. Levels below 2 pCi/L have been achieved in 75 to 80 percent of the homes mitigated. Current research also shows that when these standards and techniques have been applied during construction of new homes, almost all of the homes are below 4 pCi/L, and levels below 2 pCi/L have been achieved in over 90 percent of these homes. Preliminary research indicates that the same, or substantially similar, building standards and techniques can be applied successfully in mitigating radon problems in some existing nonresidential buildings. However, their effectiveness when applied during construction of new nonresidential buildings has not yet been fully demonstrated. Therefore, it is recommended that, pending further research, these building standards and techniques not be used at this time as a basis for changing the specific sections of building codes that cover nonresidential construction.

2.0.2 Although radon levels below 4 pCi/L have been demonstrated in all types of buildings by using these model building standards and techniques, specific indoor radon levels for any given building cannot be predicted due to different site and environmental conditions, building design, construction practices and variations in the operation of buildings.

2.0.3 These model building standards and techniques are not to be construed as the only acceptable methods for controlling radon levels, and are not intended to preempt, preclude, or restrict the application of alternative materials, systems, and construction practices approved by building officials under procedures prescribed in existing building codes.

2.0.4 Elevated indoor radon levels caused by emanation of radon from water is of concern, particularly in areas where there is a history of groundwater with high radon content. This document does not include model construction standards or techniques for reducing elevated levels of indoor radon that may be caused by the presence of high levels of radon in water supplies. To address this potential health risk, EPA's Office of Ground Water and Drinking Water is currently developing a proposed standard that will regulate radon levels in public water supplies. That standard will not, however, be applicable to water wells serving fewer than 25 persons or fewer than 15 service connections. Therefore, EPA has developed a suggested approach (see paragraph 8.3.3) that state or local jurisdictions should consider as they develop regulations concerning private wells. EPA is continuing to evaluate the issue of radon occurrence in private wells and the economic impacts of testing and remediation of wells with elevated radon levels.

2.0.5 The Indoor Radon Abatement Act of 1988 (Title III of TSCA)

establishes a long-term national goal of achieving radon levels inside buildings that are no higher than those found in ambient air outside of buildings. While technological, physical, and financial limitations may currently preclude attaining this goal, the underlying objective of this document is to move toward achieving the lowest technologically achievable and most cost effective levels of indoor radon in new buildings.

2.0.6 While it is not currently possible to make a precise prediction of indoor radon potential for a specific building site, a general assessment, on a statewide, county, or grouping of counties basis, can be made by referring to EPA's Radon Potential Maps and other locally available data. It should be noted that some radon potential exists in all areas. However, EPA recognizes that based on available data, there is a lower potential for elevated indoor radon levels in some states and portions of some states, and that adoption of building codes for the prevention of radon in new construction may not be justified in these areas at this time. There is language in paragraph 8.2.3 of the Model Standards recommending that jurisdictions in these areas review all available data on local indoor radon measurements, geology, soil parameters, and housing characteristics as they consider whether adoption of new codes is appropriate.

3.0 Reference Documents

References are made to the following publications throughout the document. Some of the references do not specifically address radon. They are listed here only as relevant sources of additional information on building design, construction techniques, and good building practices that should be considered as part of a general radon reduction strategy.

"Building Foundation Design Handbook," ORNL/SUB/86–72143/1, May 1988.

"Building Radon Resistant Foundations—A Design Handbook," NCMA, 1989.

"Council of American Building Officials (CABO) Model Energy Code, 1992.

"Design and Construction of Post-Tensioned Slabs on Ground," Post Tensioning Institute Manual.

"Energy Efficient Design of New Buildings Except Low-Rise Residential Buildings," ASHRAE Standard 90.1–1989.

"Energy Efficient Design of New Low-Rise Residential Buildings," Draft ASHRAE Standard 90.2 (Under public review).

"EPA Homebuyer's and Seller's Guide to Radon", (Expect publication in Spring, 1993.)

"Guide to Residential Cast-in-Place Concrete Construction," ACI 332R.

"Indoor Radon and Radon Decay Product Measurement Device Protocols." EPA 402–R–92–004, July, 1992.

"Protocols For Radon and Radon Decay Product Measurements in Homes." EPA 402–R–92–003, Spring 1992.

"Permanent Wood Foundation System—Basic Requirements, NFPA Technical Report No. 7."

"Radon Control Options for the Design and Construction of New Low-Rise Residential Buildings," ASTM Standard Guide, E1465–92.

"Radon Handbook for the Building Industry," NAHB–NRC, 1989.

"USEPA Radon Potential Maps," (Pending Publication).

"Radon Reduction in New Construction, An Interim Guide." OPA–87–009, August 1987.

"Radon Reduction in Wood Floor and Wood Foundation Systems." NFPA, 1988.

"Radon Resistant Construction Techniques for New Residential Construction. Technical Guidance." EPA/625/2–91/032, February 1991.

"Radon-Resistant Residential New Construction." EPA/600/8–88/087, July 1988.

"Guide for Concrete Floor and Slab Construction." ACI 302.1R–89.

"Ventilation for Acceptable Indoor Air Quality." ASHRAE 62–1989.

4.0 Description of Terms

For this document, certain terms are defined in this section. Terms not defined herein should have their ordinary meaning within the context of their use. Ordinary meaning is as defined in "Webster's Ninth New Collegiate Dictionary."

Air Passages: Openings through or within walls, through floors and ceilings, and around chimney flues and plumbing chases, that permit air to move out of the conditioned spaces of the building.

Combination Foundations: Buildings constructed with more than one foundation type; e.g., basement/crawlspace or basement/slab-on-grade.

Drain Tile Loop: A continuous length of drain tile or perforated pipe extending around all or part of the internal or external perimeter of a basement or crawlspace footing.

Governmental: State or local organizations/agencies responsible for building code enforcement.

Mechanically Ventilated Crawlspace System: A system designed to achieve higher air pressure in the crawlspace relative to air pressure beneath the soil-gas-retarder by use of a fan.

pCi/L: The abbreviation for "pico Curies per liter" which is used as a radiation unit of measure for radon. The prefix "pico" means a multiplication factor of 1 trillionth. A Curie is a commonly used measurement of radioactivity.

Soil Gas: The gas present in soil which may contain radon.

Soil-Gas-Retarder: A continuous membrane or other comparable material used to retard the flow of soil gases into a building.

Stack Effect: The overall upward movement of air inside a building that results from heated air rising and escaping through openings in the building superstructure, thus causing an indoor pressure level lower than that in the soil gas beneath or surrounding the building foundation.

Sub-Slab Depressurization System (Active): A system designed to achieve lower sub-slab air pressure relative to indoor air pressure by use of a fan-powered vent drawing air from beneath the slab.

Sub-Slab Depressurization System (Passive): A system designed to achieve lower sub-slab air pressure relative to indoor air pressure by use of a vent pipe routed through the conditioned space of a building and connecting the sub-slab area with outdoor air, thereby relying solely on the convective flow of air upward in the vent to draw air from beneath the slab.

Sub-Slab Pressurization System: A system designed to achieve higher sub-slab air pressure relative to indoor air pressure by use of a fan-powered vent forcing air into the area beneath a slab.

Sub-Membrane Depressurization System: A system designed to achieve lower sub-membrane air pressure relative to crawlspace air pressure by use of a fan-powered vent drawing air from under the soil-gas-retarder membrane.

5.0 Principles for Construction of Radon-Resistant Buildings

5.1 The following principles for construction of radon-resistant residential buildings underlie the specific model standards and techniques set forth in section 9.0.

5.1.1 Buildings should be designed and constructed to minimize the entrance of soil gas into the living space.

5.1.2 Buildings should be designed and constructed with features that will facilitate post-construction radon removal or further reduction of radon entry if installed prevention techniques prove to be inadequate.

5.2 As noted in the limitations section (paragraph 2.0.1), construction standards and techniques specifically applicable to new nonresidential buildings (including high-rise residential buildings), have not yet been fully demonstrated. Accordingly, the specific standards and techniques set

forth in section 9.0 should not, at this time, be considered applicable to such buildings. There are, however, several general conclusions that may be drawn from the limited mitigation experience available on large nonresidential construction. These conclusions are summarized below to provide some initial factors for consideration by builders of nonresidential buildings.

5.2.1 HVAC systems should be carefully designed, installed and operated to avoid depressurization of basements and other areas in contact with the soil.

5.2.2 As a minimum, use of a coarse gravel or other permeable base material beneath slabs, and effective sealing of expansion joints and penetrations in foundations below the ground surface will facilitate post-construction installation of a sub-slab depressurization system, if necessary.

5.2.3 Limited mitigation experience has shown that some of the same radon reduction systems and techniques used in residential buildings can be scaled up in size, number, or performance to effectively reduce radon in larger buildings.

6.0 Summary of the Model Building Standards and Techniques

The model building standards and techniques listed in section 9.0 are designed primarily for control of radon in new one- and two-family dwellings and other residential buildings three stories or less in height.

6.1 Basement and Slab-on-Grade Foundations

The model building standards and techniques for radon control in new buildings constructed on basement and slab-on-grade foundations include a layer of permeable sub-slab material, the sealing of joints, cracks, and other penetrations of slabs, floor assemblies, and foundation walls below or in contact with the ground surface, providing a soil-gas-retarder under floors and installing either an active or passive sub-slab depressurization system (SSD). Additional radon reduction techniques are prescribed to reduce radon entry caused by the heat induced "stack effect." These include the closing of air passages (also called thermal by-passes), providing makeup air from outside for combustion and exhaust devices, and installing energy conservation features that reduce nonrequired airflow out of the building superstructure.

6.2 Crawlspace Foundations

The model building standards and techniques for radon control in new buildings constructed on crawlspace foundations include those systems that actively or passively vent the crawlspace to the outside air, that divert radon before entry into the crawlspace, and that reduce radon entry into normally occupied spaces of the building through floor openings and ductwork.

6.3 Combination Foundations

Radon control in new buildings constructed on a combination of basement, slab-on-grade or crawlspace foundations is achieved by applying the appropriate construction techniques to the different foundation segments of the building. While each foundation type should be constructed using the relevant portions of these model building standards and techniques, special consideration must be given to the points at which different foundation types join, since additional soil-gas entry routes exist in such locations.

7.0 Construction Methods

The model construction standards and techniques described in Section 9.0 have proved to be effective in reducing indoor radon levels when used to mitigate radon problems in existing homes and when applied in the construction of new homes. In most instances, combinations of two or more of these standards and techniques have been applied to achieve desired reductions in radon levels. Because of the success achieved in reducing radon levels by applying these multiple, interdependent techniques, limited data has been collected on the singular contribution to radon reduction made by any one of the construction standards or techniques. Accordingly, there has been no attempt to classify or prioritize the individual standards and techniques as to their specific contribution to radon reduction. It is believed that use of all the standards and techniques (both passive and active) will produce the lowest achievable levels of indoor radon in new homes (levels below 2 pCi/L have been achieved in over 90 percent of new homes). It is also believed that use of only selected (passive) standards and techniques will produce indoor radon levels below the current EPA action level guideline of 4 pCi/L in most new homes, even in areas of high radon potential.

7.1 It is recommended that all the passive standards and techniques listed in section 9.0 (including a roughed-in passive radon control system) be used in areas of high radon potential, as defined in EPA's Radon Potential Map. Based on more detailed analysis of locally available data, jurisdictions may choose to apply more or less restrictive construction requirements within designated portions of their areas of responsibility. To ensure that new homes are below the locally prescribed Action Level, in those cases where only passive radon control systems have been installed, occupants should have their homes tested to determine if passive radon control systems need to be activated.

7.2 Any radon testing referenced in this document should be conducted in accordance with EPA Radon Testing Protocols or current EPA guidance for radon testing in real estate transactions as referenced in paragraph 3.0. It is recommended that all testing be conducted by companies listed in EPA's Radon Measurement Proficiency Program (RMP) or comparable State Certification programs.

7.3 The design and installation of radon control systems should be performed or supervised by a builder or his/her representative who has attended an EPA-approved radon training course.

8.0 Recommended Implementation Procedures

The following procedures are recommended as guidelines for applying the model building standards and techniques and construction methods contained in this document. These procedures are based on the rationale that a passive radon control system and features to facilitate any necessary post-construction radon reduction should be routinely built-in to new buildings in areas having a high radon potential.

8.1 State, county or local jurisdictions that use these model building standards and techniques as the basis for developing building codes for radon resistant construction should classify their area by reference to the Zones in EPA's Radon Potential Maps and by considering other locally available data.

8.2 State, county or local jurisdictions that use these model building standards and techniques as the basis for developing building codes for radon-resistant construction should specify the construction methods applicable to their jurisdictional area.

8.2.1 In areas classified as Zone 1, application of the construction method in paragraph 7.1 is recommended.

8.2.2 In areas classified as Zone 2, home builders may apply any of the radon-resistant construction standards and techniques that contribute to reducing the incidence of elevated radon levels in new homes and that are appropriate to the unique radon

potential that may exist in their local building area.

8.2.3 In those limited areas where state and local jurisdictions have analyzed local indoor radon measurements, geology, soil parameters, and housing characteristics and determined that there is a low potential for indoor radon, application of radon-resistant construction techniques may not be appropriate. In these areas, radon-resistant construction techniques may not be needed, or limited use of selected techniques may be sufficient.

8.3 It is recognized that specific rules, regulations, or ordinances covering implementation of construction standards or codes are developed and enforced by state and/or local jurisdictions. While developing the model construction standards and techniques contained in this document, EPA also developed several approaches to regulation that states or local jurisdictions may find useful and appropriate as they develop rules and regulations that meet their unique requirements. For example:

8.3.1 In areas where the recommended construction method or comparable prescriptive methods are mandated by state or local jurisdictions, regulations would need to include, as part of the inspection process, a review of the radon-resistant construction features by inspectors who have received additional training, to ensure that the radon-resistant construction features are properly installed during construction. It would also be necessary to establish requirements for those building officials who review and approve construction plans and specifications to become proficient in identifying and approving planned radon-resistant construction features.

8.3.2 In any area where surveys have shown the existence of high levels of radon in groundwater, or, in areas where elevated levels of indoor radon have been found in homes already equipped with active radon control systems, well water may be the source. In such areas, authorities responsible for water regulation should consider establishing well water testing requirements that include tests for radon.

9.0 Model Building Standards and Techniques

9.1 Foundation and Floor Assemblies:

The following construction techniques are intended to resist radon entry and prepare the building for post construction radon mitigation, if necessary. These techniques, when combined with those listed in paragraph 9.2, meet the requirements of the construction method outlined in paragraph 7.1.

9.1.1 A layer of gas permeable material shall be placed under all concrete slabs and other floor systems that directly contact the ground and are within the walls of the living spaces of the building, to facilitate installation of a sub-slab depressurization or pressurization system, if needed. Alternatives for creating the gas permeable layer include:

a. A uniform layer of clean aggregate, a minimum of 4 inches thick.

b. A uniform layer of sand, a minimum of 4 inches thick, overlain by a layer or strips of manufactured matting designed to allow the lateral flow of soil gases.

c. Other materials, systems, or floor designs with demonstrated capability to permit depressurization or pressurization across the entire subfloor area.

9.1.2 A minimum 6-mil (or 3-mil cross laminated) polyethylene or equivalent flexible sheeting material shall be placed on top of the gas permeable layer prior to pouring the slab or placing the floor assembly to serve as a soil-gas-retarder by bridging any cracks that develop in the slab or floor assembly and to prevent concrete from entering the void spaces in aggregate base material. The sheeting shall be continuous over the entire floor area. Any seams shall be overlapped at least 12 inches. The sheeting shall fit closely around any pipe, wire or other penetrations of the material. All punctures or tears in the material shall be sealed or covered with additional sheeting.

9.1.3 To reduce the formation of cracks, all concrete floor slabs shall be designed, mixed, placed, reinforced, consolidated, finished and cured in accordance with the American Concrete Institute publications, "Guide for Concrete Floor and Slab Construction," ACI 302.1R, "Guide to Residential Cast-in-Place Concrete Construction," ACI 332R, or the Post Tensioning Institute Manual, "Design and Construction of Post-Tensioned Slabs on Ground."

9.1.4 Floor assemblies in contact with the soil and constructed of materials other than concrete shall be sealed to minimize soil gas transport into the conditioned spaces of the building. A soil-gas-retarder shall be installed beneath the entire floor assembly in accordance with paragraph 9.1.2.

9.1.5 Large openings through concrete slabs, wood and other floor assemblies in contact with the soil, such as spaces around bathtub, shower, or toilet drains, shall be sealed with a solvent based plastic roof cement or other approved material to retard soil gas entry.

9.1.6 Smaller gaps around all pipe, wire, or other objects that penetrate concrete slabs or other floor assemblies shall be sealed to retard soil gas entry with a polyurethane sealant or service equivalent, applied in accordance with the manufacturer's recommendations.

9.1.7 All control joints, isolation joints, construction joints, and any other joints in concrete slabs or between slabs and foundation walls shall be sealed to retard soil gas entry. A continuous formed gap (for example, a "tooled edge") which allows the application of a sealant that will provide a continuous seal shall be created along all joints. When the slab has cured, the gap shall be cleared of loose material and filled with a polyurethane sealant or service equivalent in accordance with the manufacturer's recommendations.

9.1.8 Channel type (French) drains are not recommended. However, if used, such drains shall be installed in accordance with the National Concrete Masonry Association publication, "Building Radon-Resistant Foundations—A Design Handbook."

9.1.9 Floor drains and air conditioning condensate drains that discharge directly into the soil below the slab should be avoided. If installed, these drains shall be routed through solid pipe to daylight or through a trap that shall include a gas-tight mechanical sealing mechanism or, if a water type trap, provisions shall be made to ensure that water remains in the trap.

9.1.10 Sumps open to soil or serving as the termination point for sub-slab or exterior drain tile loops shall be covered with a gasketed or otherwise sealed lid to retard soil gas entry.

Note: If the sump is to be used as the suction point in an active sub-slab depressurization system, the lid should be designed to accommodate the vent pipe. If also intended as a floor drain, the lid shall also be equipped with a trapped inlet to handle any surface water on the slab.

9.1.11 Foundation walls below the ground surface shall be constructed to minimize the transport of soil gas from the soil into the building. Hollow basement walls shall be sealed at the top to prevent passage of air from the interior of the wall into the living space. At least one continuous course of solid masonry, one course of masonry grouted solid, or a poured concrete beam at or above finished ground surface level shall be used for this purpose and shall be constructed in conformance with the National Concrete Masonry Association publication, "Building Radon-Resistant

Foundations—A Design Handbook." Where a brick veneer or other masonry ledge is installed, the course immediately below that ledge shall also be sealed.

9.1.12 Pressure treated wood foundations shall be constructed and installed as described in the National Forest Products Association (NFPA) Manual, "Permanent Wood Foundation System—Basic Requirements, Technical Report No. 7." In addition, these foundations shall be modified and sealed for radon reduction in accordance with NFPA publication, "Radon Reduction in Wood Floor and Wood Foundation Systems."

9.1.13 Joints, cracks or other openings around all penetrations of both exterior and interior surfaces of masonry block or wood foundation walls below the ground surface shall be sealed with polyurethane sealant or service equivalent. Penetrations of poured concrete walls should also be sealed on the exterior surface. This includes sealing of wall tie penetrations.

9.1.14 The exterior surfaces of portions of masonry block walls below the ground surface shall be constructed to resist soil gas entry in accordance with procedures outlined in the National Concrete Masonry Association publication, "Building Radon-Resistant Foundations—A Design Handbook." Poured concrete basement walls shall be treated in accordance with the American concrete Institute publication, "Guide to Residential Cast-in-Place Concrete Construction," ACI 332R.

9.1.15 Placing air handling ducts in or beneath a concrete slab floor or in other areas below grade and exposed to earth is not recommended unless the air handling system is designed and operated to maintain continuous positive pressure within such ducting. If ductwork does pass through a crawlspace or beneath a slab, it should be of seamless material. Where joints in such ductwork are unavoidable, they shall be sealed with approved materials.

9.1.16 Placing air handling units in crawlspaces, or in other areas that are below grade and exposed to earth, is not recommended.

9.1.17 To retard soil gas entry, openings around all penetrations through floors above crawlspaces shall be caulked or otherwise sealed.

9.1.18 To retard soil gas entry, access doors and other openings or penetrations between basements and adjoining crawlspaces shall be closed, gasketed or otherwise sealed and fitted with a means of positive closure.

9.1.19 Crawlspaces should be ventilated in conformance with locally adopted codes. In addition, vents in passively ventilated crawlspaces shall be open to the exterior and be of noncloseable design.

9.1.20 In buildings with crawlspace foundations the following components of a passive sub-membrane depressurization system shall be installed during construction. (Note: Where local codes permit mechanically ventilated crawlspaces and such systems are operated year round, these components are not required.)

9.1.20.1 The soil in both vented and nonvented crawlspaces shall be covered with a continuous layer of polyethylene sheeting or equivalent membrane material. The sheeting shall be sealed at seams and penetrations, around the perimeter of interior piers, and to the foundation walls.

9.1.20.2 A length of 3- or 4-inch diameter perforated pipe or a strip of manufactured airway matting material should be inserted horizontally beneath the sheeting and connected to a 3- or 4-inch diameter "T" fitting with a vertical standpipe installed through the sheeting in a central location. The standpipe shall be extended vertically through the building floors and terminate 12 inches above the surface of the roof in a location at least 10 feet away from any window or other opening into the conditioned spaces of the building.

9.1.20.3 Radon vent pipes shall be clearly identified as part of a radon control system.

9.1.20.4 To facilitate installation of an active sub-membrane depressurization system, electrical wiring for vent pipe fans and system failure alarms shall be installed during construction in accordance with the National Electric Code.

9.1.21 In basement or slab-on-grade buildings the following components of a passive sub-slab depressurization system shall be installed during construction:

9.1.21.1 A minimum 3-inch diameter PVC or other gas-tight pipe shall be embedded vertically into the sub-slab aggregate or other permeable material before the slab is poured. A "T" fitting or other support on the bottom of the pipe shall be used to ensure that the pipe opening remains within the sub-slab permeable material. This gas tight pipe shall be extended vertically through the building floors and terminate 12 inches above the surface of the roof in a location at least 10 feet away from any window or other opening into the conditioned spaces of the building. (Note: Because of the uniform permeability of the sub-slab layer prescribed in paragraph 9.1.1, the precise positioning of the vent pipe through the slab is not critical to system performance in most cases. However, a central location shall be used where feasible. In buildings designed with interior footings (that is, footings located inside the overall perimeter footprint of the building) or other barriers to lateral flow of sub-slab soil gas, radon vent pipes shall be installed in each isolated, non-connected floor area. In areas where less permeable sub-slab materials are used and an active SSD system is installed, 2-inch diameter vent pipe is an acceptable alternative for handling the lower air flows. However, additional suction points may be required. If multiple suction points are used, vent pipes are permitted to be manifolded in the basement or attic into a single vent that could be activated using a single fan.).

9.1.21.2 Internal sub-slab or external footing drain tile loops that terminate in a covered and sealed sump, or internal drain tile loops that are stubbed up through the slab are also permitted to provide a roughed-in passive sub-slab depressurization capability. The sump or stubbed up pipe shall be connected to a vent pipe that extends vertically through the building floors and terminates 12 inches above the surface of the roof in a location at least 10 feet away from any window or other opening into the conditioned spaces of the building.

9.1.21.3 Radon vent pipes shall be clearly identified as part of a radon control system.

9.1.21.4 To facilitate installation of an active sub-slab depressurization system, electrical wiring for vent pipe fans and system failure alarms shall be installed during construction in accordance with the National Electrical Code.

9.1.21.5 In combination basement/crawlspace or slab-on-grade/crawlspace buildings, the sub-membrane vent described in paragraph 9.1.20.2 may be tied into the sub-slab depressurization vent to permit use of a single fan for suction if activation of the system is necessary.

9.2 Stack Effect Reduction Techniques.

The following construction techniques are intended to reduce the stack effect in buildings and thus the driving force that contributes to radon entry and migration through buildings. As a basic principle, the driving force decreases as the number and size of air leaks in the upper surface of the building decrease. It should also be noted that in most cases, exhaust fans contribute to stack effect.

9.2.1 All air passages, as defined in this standard, shall be closed or sealed using sealant and/or fire resistant

materials approved in local codes for such application.

9.2.2 If located in conditioned spaces, attic access stairs and other openings to the attic from the building shall be closed, gasketed, or otherwise sealed and fitted with a means of positive closure.

9.2.3 Recessed ceiling lights that are designed to be sealed shall be used when installed on top-floor ceilings or in other ceilings that connect to air passages.

9.2.4 Air ducts from the outside shall be installed in compliance with locally adopted codes or other provisions made to ensure an adequate supply of combustion and makeup air for fireplaces, wood stoves, and other combustion or vented appliances, such as furnaces, clothes dryers and water heaters.

9.2.5 Windows and exterior doors in the building superstructure shall be weather stripped in conformance with the Model Energy Code or otherwise designed to reduce air leakage.

9.2.6 HVAC systems shall be designed and installed to avoid depressurization of the building relative to underlying and surrounding soil. Specifically, joints in air ducts and plenums passing through unconditioned spaces such as attics, crawlspaces or garages shall be sealed.

9.3 Active Sub-Slab/Sub-Membrane Depressurization System. When necessary, activation of the roughed-in passive sub-membrane or sub-slab depressurization systems described in paragraphs 9.1.20 and 9.1.21 shall be completed by adding an exhaust fan in the vent pipe and a visible or audible warning system to alert the building occupant if there is loss of pressure or air flow in the vent pipe.

9.3.1 The fan in the vent pipe and all positively pressurized portions of the vent pipe shall be located outside the habitable space of the building.

9.3.2 The fan in the vent pipe shall be installed in a vertical run of the vent pipe.

9.3.3 Any horizontal runs of the vent pipe shall be sloped at 1/8 inch per foot so as to drain rain water or condensation back to the earth beneath the soil-gas-retarder and to prevent accumulation of water in any portion of the vent pipe.

9.3.4 To avoid reentry of soil gas into the building, the vent pipe shall exhaust 12 inches above the surface of the roof in a location at least 10 feet away from any window or other opening into the conditioned spaces of the building.

9.3.5 The size and air movement capacity of the vent pipe fan shall be sufficient to create and maintain a pressure field beneath the slab that is lower than the pressure within the living spaces.

9.3.6 Under conditions where soil is highly permeable, reversing the air flow in an active sub-slab depressurization system and forcing air beneath the slab may be effective in reducing indoor radon levels.

Note: The long-term effect of active sub-slab depressurization or pressurization on the soil beneath building foundations has not been determined. Until ongoing research produces definitive data, in areas where expansive soils or other unusual soil conditions exist, the local soils engineer shall be consulted during the design and installation of sub-slab depressurization or pressurization systems.

[FR Doc. 93–8128 Filed 4–9–93; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Application for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for an FM station:

Applicant, city and state	File No.	MM docket No.
EZ Communications, Inc., Pittsburgh/Pennsylvania.	BRH–910401C2	93–88
Allegheny Communications Group, Inc., Pittsburgh/Pennsylvania.	BPH–910628MC	

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986.

Issue Heading and Applicants

1. Comparative, Both
2. Ultimate, Both

3. If there is any non-standard issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete Hearing Designation Order in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC 20554. The complete text may also be purchased from the Commission's duplicating contractor, Downtown Copy Center, 1114 21st Street, Washington, DC 20036. (Telephone (202) 452–1422).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 93–8481 Filed 4–9–93; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; City of Los Angeles et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010825–008.

Title: City of Los Angeles/Evergreen Marine Corporation.

Parties:

City of Los Angeles ("City")
Evergreen Marine Corporation, Ltd. ("Evergreen")

Synopsis: The Agreement provides for setting the compensation to be paid by Evergreen to the City during the five-year period January 1, 1992 through December 31, 1996.

Agreement No.: 217–010051–023.

Title: Mediterranean Space Charter Agreement.

Parties:

British Continental Shipping Line
Compania Trasatlantica Espanola, S.A.
Croatia Line
Farrell Lines, Inc.
Italia di Navigazione, S.p.A.
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Nedlloyd Lijnen B.V.
P & O Containers Limited
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment deletes Compania Trasatlantica

Espanola, S.A. as party to the Agreement.

Agreement No.: 217–011224–001.

Title: Mediterranean/Puerto Rico Space Charter Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.
Nordana Line AS
Sea-Land Service, Inc.

Synopsis: The proposed amendment deletes Compania Trasatlantica Espanola, S.A. as a party to the Agreement.

By Order of the Federal Maritime Commission.

Dated: April 6, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–8428 Filed 4–9–93; 8:45 am]

BILLING CODE 6730–01–M

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Public Law 89–777 (46 U.S.C. 817 (e)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended: Costa Cruise Lines N.V., American Family Cruise Lines N.V. and Costa Crociere S.p.A., World Trade Center, 80 Southwest 8th Street, Miami, Florida 33130–3097.

Vessels: AMERICAN ADVENTURE and AMERICAN PIONEER

Dated: April 6, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93–8429 Filed 4–9–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

The Bank of New York Company, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 6, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. The Bank of New York Company, Inc., New York, New York, and Ex Y Zee, Inc., New York, New York; to acquire National Community Banks, Inc., West Patterson, New Jersey, and thereby indirectly acquire National Community Bank of New Jersey, Rutherford, New Jersey. In connection with this application, Ex Y Zee, Inc., New York, New York, has applied to become a bank holding company by acquiring 100 percent of the voting shares of National Community Banks, Inc., West Patterson, New Jersey, and thereby indirectly acquire National Community Bank of New Jersey, Rutherford, New Jersey.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. First Bancorporation, Inc., Sparta, Wisconsin; to become a bank holding company by acquiring at least 95 percent of the voting shares of First Bank of Sparta, Sparta, Wisconsin.

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 merge with Houston Investments, Inc., Minneapolis, Minnesota, and thereby indirectly acquire Sprague National Bank, Caledonia, Minnesota.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Netex Bancorporation, Pittsburg, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Pittsburg, Texas.

Board of Governors of the Federal Reserve System, April 6, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–8445 Filed 4–9–93; 8:45 am]

BILLING CODE 6210–01–F

Internationale Nederlanden Group N.V.; 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 May 3, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice

President) 33 Liberty Street, New York, New York 10045:

1. Internationale Nederlanden Group N.V., Amsterdam, the Netherlands; to engage *de novo* through its subsidiaries, Internationale Nederlanden Securities Corporation, New York, New York, and Internationale Nederlanden Capital Corporation, New York, New York, in making, servicing and acquiring loans and other extensions of credit (including issuing letters of credit and accepting drafts), directly or indirectly, for ING's own account or the account of others, such as would be made, for example, by a consumer or commercial finance, credit card, mortgage of factoring company; providing securities brokerage services, related securities credit activities, and incidental activities such as offering custodial services, individual retirement accounts, and cash management services solely as agent for the account of customers and providing such securities brokerage services in combination with the investment advisory services listed below; serving as an advisory company for mortgage and real estate investment trusts; serving as investment adviser to investment companies registered under the Investment Company Act of 1940, including sponsoring, organizing, and managing closed-end investment companies; providing portfolio investment advice to any other person; furnishing general economic information and advice, general economic statistical forecasting services and industry studies; providing financial advice to state and local and foreign governments, such as with respect to the issuance of their securities; providing financial and transactional advice to institutional customers with respect to restructuring, financing and negotiating mergers, acquisitions, divestitures, joint ventures, leveraged buyouts, recapitalizations, capital structurings, structuring and arranging loan syndications, financings and other corporate transactions, rendering fairness opinions, providing valuation services, and conducting feasibility studies; and providing financial and transactional advice regarding the structuring and arranging of swaps, caps, and similar transactions relating to interest rates, currency exchange rates or prices, and economic financial indices. These activities will be conducted pursuant to §§ 225.25(b)(1), (b)(4), and (b)(15) of the Board's Regulation Y, 12 CFR 225.25(b)(1), (b)(4), and (b)(15).

Board of Governors of the Federal Reserve System, April 6, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–8446 Filed 4–9–93; 8:45 am]

BILLING CODE 6210–01–F

Fern R. Shierson & Douglas J. Shierson, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 3, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Fern R. Shierson & Douglas J. Shierson; to acquire an additional 6.5 percent, for a total of 15.96 percent, of the voting shares of ASB Bankcorp, Inc., Adrian, Michigan, and thereby indirectly acquire Adrian State Bank, Adrian, Michigan.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Russell C. Bauman, Kerkhoven, Minnesota; to acquire 25 percent of the voting shares of Kerkhoven Bancshares, Inc., Kerkhoven, Minnesota, and thereby indirectly acquire State Bank of Kerkhoven, Kerkhoven, Minnesota.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. B. John Barry, Aspen, Colorado, and Raymond A. Lamb, Paradise Valley, Arizona; each to acquire 40.20 percent of the voting shares of The Bank of New Mexico Holding Company, Albuquerque, New Mexico, and thereby indirectly acquire The Bank of New Mexico, Albuquerque, New Mexico.

Board of Governors of the Federal Reserve System, April 6, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93–8447 Filed 4–9–93; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 922 3037]

Sherwin Basil d/b/a Audio-Logics; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the California hearing aid seller to correct false and deceptive claims in Yellow Pages advertisements, and to prominently post corrected information about Medicare coverage in his offices or provide it to consumers prior to purchase, and would prohibit him from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service he offers in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580, (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Sherwin

Basil, individually and d/b/a Audio Logics, and it is now appearing that Sherwin Basil, individually and d/b/a Audio Locis, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is Hereby Agreed by and between Sherwin Basil, individually and d/b/a Audio Logics, and respondent's attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Sherwin Basil, individually and d/b/a Audio Logics, is a resident of California. Proposed respondent's main office and principal place of business is located at 1165 E. San Antonio, Long Beach, California 90807. Another office is located at 1919 North Fairview Avenue, suite 204, Santa Ana, California 92706.

Proposed respondent Sherwin Basil is an audiologist who is, and has been, selling hearing aids and offering hearing tests to the public. Proposed respondent is the owner of Audio-Logics, and he formulates, directs and controls the policies, acts and practices of said business.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedureal steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only, and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's addresses as stated in this agreement shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Proposed respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered, That respondent Sherwin Basil, individually and d/b/a Audio-Logics, respondent's successors and assigns, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

II

It is further ordered, That respondent Sherwin Basil, individually and d/b/a Audio-Logics, and respondent's successors and assigns, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representations in Paragraphs Seven and Nine of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. The letter shall also state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing tests are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions, unless the representation is qualified by a statement that the hearing tests must be ordered in advance by a physician for medical diagnostic purposes. Respondent shall include a copy of this Order with the letter.

III

It is further ordered, That respondent Sherwin Basil, individually and d/b/a Audio-Logics, and respondent's successors and assigns, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondent does business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondent shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representations in Paragraphs Seven and Nine of the complaint.

IV

It is further ordered, That respondent Sherwin Basil, individually and d/b/a Audio Logics, and respondent's successors and assigns, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representations in Paragraphs Seven and Nine of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V

It is further ordered, That respondent shall, within thirty (30) days after service upon respondent of this Order, distribute a copy of the Order to each of respondent's operating divisions, subsidiaries, and related offices, to each of respondent's managerial employees, to each of respondent's employees responsible for advertising, and to each of respondent's officers, agents, representatives or employees selling hearing aids and listening devices and/or offering hearing tests.

VI

It is further ordered, That respondent shall hereafter promptly notify the Commission in the event of the discontinuance of respondent's present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VII

It is further ordered, That respondent shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which respondent has compiled with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Sherwin Basil, individually and doing business as Audio-Logics, a sole proprietorship.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids and hearing tests in Yellow Pages directories. The Commission's proposed complaint charges Sherwin Basil with making false representations in Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from him. In fact, medicare will not pay for the costs of hearing aids purchased from him. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The complaint also charges Sherwin Basil with representing that medicare will pay for the costs of hearing tests provided by him. The complaint alleges that this representation is deceptive because it does not disclose the material information that medicare will only pay for the costs of tests if they are performed by order of a physician for purposes of obtaining additional information necessary for the physician's evaluation of the need for or the appropriate type of medical or surgical treatment for a hearing deficit or related medical problem.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. It also requires respondent to post in his offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondent from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondent from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondent to contact the publishers of all Yellow Pages directories in which the medicare claims appear to request that the claim that medicare covers the costs of hearing aids be deleted from, and the claim that medicare covers the costs of hearing tests be modified in, the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondent to provide corrective information for two years after the publication of the last directory in which the medicare claims appear Respondent has a choice in how to provide the corrective information. He can post a notice in his main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondent may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondent to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondent's business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of

the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8475 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3037]

Susan Frugone and Patricia Keane d/b/a Audio RX Hearing Aids; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the California hearing aid sellers to correct false and deceptive claims in Yellow Pages advertisements, prominently post corrected information about Medicare coverage in their offices or provide it to consumers prior to purchase, and would prohibit them from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service they offer in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580, (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, a partnership, and it now appearing that Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, and respondents' counsel, and counsel for the Federal Trade Commission that:

1. Proposed respondents Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, are residents of California. Proposed respondents' main office and principal place of business is located at 6333 Wilshire Blvd., Suite 307, Los Angeles, California 90048. Another office is located at 4161 Redondo Beach Blvd., suite 201, Lawndale, California 90260.

Proposed respondents Susan Frugone and Patricia Keane are audiologists who are, and have been, selling hearing aids and offering hearing tests to the public. Proposed respondents are owners of and partners in Audio Rx Hearing Aids. They formulate, direct and control the policies, acts and practices of said partnership.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered, That respondents Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, a partnership, respondents' successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary,

division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

II

It is further ordered, That respondents Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, a partnership, and respondents' successors and assigns, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representation in Paragraph Seven of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. Respondents shall include a copy of the Order with the letter.

III

It is further ordered, That respondents Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, a partnership, and their successors and assigns, within fifteen (15) days after this order becomes final, either:

A. Post in each of the locations in which respondents do business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondents shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representation in Paragraph Seven of the complaint.

IV

It is further ordered, That respondents Susan Frugone and Patricia Keane, individually and as partners d/b/a Audio Rx Hearing Aids, a partnership, and respondents' successors and assigns, shall, for three (3) years after the date of this Order maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order, including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representation in Paragraph Seven of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V

It is further ordered, That respondents shall, within thirty (30) days after service upon respondents of this Order, distribute a copy of the Order to each of respondents' operating divisions, subsidiaries, and related offices, to each of respondents' managerial employees, to each of respondents' employees responsible for advertising, and to each of respondents' officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI

It is further ordered, That each individual respondent shall hereafter promptly notify the Commission in the event of the discontinuance of her present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VII

It is further ordered, That respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Susan Frugone and Patricia Keane, individually and as partners doing business as Audio Rx Hearing Aids.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids in Yellow Pages directories. The Commission's proposed complaint charges Susan Frugone and Patricia Keane with making false representations in their Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from respondents. In fact, medicare will not pay for the costs of hearing aids purchased from respondents. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. It also requires respondents to post in their offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondents from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondents

from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondents to contact the publishers of all Yellow Pages directories in which the medicare claim appears to request that the claim that medicare covers the costs of hearing aids be deleted from the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondents to provide corrective information for two years after the publication of the last directory in which the medicare claim appears. Respondents have a choice in how to provide the corrective information. They can either post a notice in their main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondents may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondents to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondents' business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8473 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3037]

Bay Colony Audiology Center, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Massachusetts corporation and its officer to correct false and deceptive claims in Yellow Pages advertisements, prominently post corrected information about Medicare coverage in their offices or provide it to consumers prior to purchase, and would prohibit them from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service they offer in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580, (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Bay Colony Audiology Center, a corporation, and of David Citron, III, individually and as an officer of said corporation, and it now appearing that Bay Colony Audiology Center, a corporation, and David Citron, III, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Bay Colony Audiology Center, by its duly authorized officer, and David Citron, III, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Bay Colony Audiology Center is a Massachusetts corporation with its office and principal place of business located at 825 Main Street, South Weymouth, Massachusetts 02190.

Proposed respondent David Citron, III, is an audiologist who is an officer of Bay Colony Audiology Center. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

Proposed respondents are, and have been, selling hearing aids and offering hearing tests to the public.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only, and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the

following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered, That respondents Bay Colony Audiology Center, a Massachusetts corporation, its successors and assigns, and its officers, and David Citron, III, individually and as an officer of said corporation; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

II.

It is further ordered, That respondents Bay Colony Audiology Center, a corporation, its successors and assigns, and its officers, and David Citron, III, individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representations in Paragraphs Seven and Nine of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. The letter shall also state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing tests are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions, unless the representation is qualified by a statement that the hearing tests must be ordered in advance by a physician for medical diagnostic purposes. Respondents shall include a copy of this Order with the letter.

III.

It is further ordered, That respondents Bay Colony Audiology Center, a corporation, its successors and assigns, and its officers, and David Citron, III, individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondents do business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondents shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representations in Paragraphs Seven and Nine of the complaint.

IV.

It is further ordered, That respondents Bay Colony Audiology Center, a corporation, its successors and assigns, and its officers, and David Citron, III. individually and as an officer of said corporation, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order, including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representations in Paragraphs Seven and Nine of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V.

It is further ordered, That respondents shall, within thirty (30) days after service upon them of this Order, distribute a copy of the Order to each of their operating divisions, subsidiaries, and related offices, to each of their managerial employees, to each of their employees responsible for advertising, and to each of their officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI.

It is further ordered, That the corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, purchase, or sale resulting in a change of ownership or business structure, or any other change in respondent that may affect compliance obligations arising of this Order.

VII.

It is further ordered, That the individual respondent shall hereafter

promptly notify the Commission in the event of the discontinuance of his present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Bay Colony Audiology Center, a corporation, and David Citron, III, individually and as an officer of Bay Colony Audiology Center.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids and hearing tests in Yellow Pages directories. The Commission's proposed complaint charges Bay Colony Audiology Center and David Citron with making false representations in its Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from respondents. In fact, medicare will not pay for the costs of hearing aids purchased from respondents. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The complaint also charges Bay Colony Audiology Center and David Citron with representing that medicare will pay for the costs of hearing tests provided by respondents. The complaint alleges that this representation is deceptive because it does not disclose the material information that medicare will only pay for the costs of test if they are performed by order of a physician for purposes of obtaining information necessary for the physician's evaluation of the need for or the appropriate type of medical or surgical treatment for a hearing deficit or related medical problem.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. It also requires respondents to post in their offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondents from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondents from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondents to contact the publishers of all Yellow Pages directories in which the medicare claims appear to request that the claim that medicare covers the costs of hearing aids be deleted from, and the claim that medicare covers the costs of hearing tests be modified in, the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondents to provide corrective information for two years after the publication of the last directory in which the medicare claims appear. Respondents have a choice in how to provide the corrective information. They can either post a notice in their main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondents may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondents to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondents' business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8474 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922–3037]

Brooklyn Audiology Assocs., P.C., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the New York corporation and its officer to correct false and deceptive claims in Yellow pages advertisements, and to prominently post corrected information about Medicare coverage in their offices or provide it to consumers prior to purchase, and would prohibit them from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service they offer in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments must be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580. (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of Brooklyn Audiology Assocs., P.C., a corporation, and Richard Kaner, individually and as an officer of Brooklyn Audiology Assocs., P.C.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Brooklyn Audiology Assocs., P.C., a corporation, and of Richard Kaner, individually and as an officer of said corporation, and it now appearing that Brooklyn Audiology Assocs., P.C., a corporation, and Richard Kaner, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Brooklyn Audiology Assocs., P.C., by its duly authorized officer, and Richard Kaner, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Brooklyn Audiology Assocs., P.C., is a New York corporation with its main office and principal place of business located at 8502 4th Ave., Bay Ridge, Brooklyn, New York 11209. Other offices are located at 3003 Ocean Parkway, Brooklyn, New York 11234, and at 142 Joralemon Street, Brooklyn, New York 11201.

Proposed respondent Richard Kaner is an audiologist who is an officer of Brooklyn Audiology Assocs., P.C. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

Proposed respondents are, and have been, selling hearing aids and offering hearing tests to the public.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered, That respondents Brooklyn Audiology Assocs., P.C., a New York Corporation, its successors and assigns, and its officers, and Richard Kaner, individually and as an officer of said corporation; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

II.

It is further ordered, That respondents Brooklyn Audiology Assocs., P.C., a corporation, its successors and assigns, and its officers, and Richard Kaner, individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representations in paragraphs seven and nine of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. The letter shall also state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing tests are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions, unless the representation is qualified by a statement that the hearing tests must be ordered in advance by a physician for medical diagnostic purposes. Respondents shall include a copy of this Order with the letter.

III.

It is further ordered, That respondents Brooklyn Audiology Assocs., P.C., a corporation, its successors and assigns, and its officers, and Richard Kaner,

individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondents do business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondents shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representations in paragraphs seven and nine of the complaint.

IV.

It is further ordered, That respondents Brooklyn Audiology Assocs., P.C., a corporation, its successors and assigns, and its officers, and Richard Kaner, individually and as an officer of said corporation, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order, including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representations in PARAGRAPHS SEVEN and NINE of the complaint, and

(2) The notices required by paragraph III(A) and (B) above

V.

It is further ordered, That respondents shall, within thirty (30) days after service upon them of this Order, distribute a copy of the Order to each of their operating divisions, subsidiaries, and related offices, to each of their managerial employees, to each of their employees responsible for advertising, and to each of their officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI.

It is further ordered, That the corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, purchase, or sale resulting in a change of ownership or business structure, or any other change in respondent that may affect compliance obligations arising of this Order.

VII

It is further ordered, That the individual respondent shall hereafter promptly notify the Commission in the event of the discontinuance of his present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Brooklyn Audiology Assocs., P.C., a corporation, and Richard Kaner, individually and as an officer of Brooklyn Audiology Assocs., P.C.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids and hearing tests in Yellow Pages directories. The Commission's proposed complaint charges Brooklyn Audiology Assocs., P.C., and Richard Kaner with making false representations in its Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from respondents. In fact, medicare will not pay for the costs of hearing aids purchased from respondents. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The complaint also charges Brooklyn Audiology Assocs., P.C., and Richard Kaner with representing that medicare will pay for the costs of hearing tests provided by respondents. The complaint alleges that this representation is deceptive because it does not disclose the material information that medicare will only pay for the costs of tests if they are performed by order of a physician for purposes of obtaining additional information necessary for the physician's evaluation of the need for or the appropriate type of medical or surgical treatment for a hearing defect or related medical problem.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. It also requires respondents to post in their offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondents from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondents from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondents to contact the publishers of all Yellow Pages directories in which the medicare claims appear to request that the claim that medicare covers the costs of hearing aids be deleted from, and the claim that medicare covers the costs of hearing tests be modified in, the next edition in

which it is possible to make changes, and in all subsequent editions.

Part III requires respondents to provide corrective information for two years after the publication of the last directory in which the medicare claims appear. Respondents have a choice in how to provide the corrective information. They can either post a notice in their main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondents may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondents to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondents' business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary

[FR Doc. 93–8470 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922–3037]

Sallye B. Carpentier d/b/a Brown-Potter Hearing Aid Center; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the California hearing aid seller to correct false and deceptive claims in Yellow Pages advertisements, prominently post corrected information about Medicare coverage in her office or provide it to consumers prior to purchase, and would prohibit her from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service she offers in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580. (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of SALLYE B. CARPENTIER, individually and d/b/a Brown-Potter Hearing Aid Center, a sole proprietorship.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, and it now appearing that Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, hereinafter sometimes referred to as proposed respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, and respondent's attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, is a resident of California. Proposed respondent's office and principal place of business is located at 3740 E. 7th Street, Long Beach, California 90804.

Proposed respondent is a hearing aid dealer who is, and has been, selling hearing aids and offering hearing tests to the public. Proposed respondent is the owner of Brown-Potter Hearing Aid Center and she formulates, directs and controls the policies, acts and practices of said business.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right

she may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, she will be required to file one or more compliance reports showing that she has fully complied with the order. Proposed respondent further understands that she may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered That respondent Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, respondent's successors and assigns, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

It Is Further Ordered That respondent Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, and respondent's successors and assigns, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representation in PARAGRAPH SEVEN of the complaint. The letter shall state that any statements representing, directly or by implication, that U.S. Government Plans will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. Respondent shall include a copy of this Order with the letter.

III.

It Is Further Ordered That respondent Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, and respondent's successors and assigns, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondent does business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE.

Respondent shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representation in PARAGRAPH SEVEN of the complaint.

IV.

It is further ordered, That respondent, Sallye B. Carpentier, individually and d/b/a Brown-Potter Hearing Aid Center, and respondent's successors and assigns, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order, including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representation in PARAGRAPH SEVEN of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V.

It is further ordered, That respondent shall, within thirty (30) days after service upon respondent of this Order, distribute a copy of the Order to each of respondent's operating divisions, subsidiaries, and related offices, to each of respondent's managerial employees, to each of respondent's employees responsible for advertising, and to each of respondent's officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI.

It is further ordered, That respondent shall hereafter promptly notify the Commission in the event of the discontinuance of respondent's present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include respondent's new business address and a statement of the nature of such business or employment and a description of respondent's expected duties and responsibilities.

VII.

It is further ordered, That respondent shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which respondent has complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Sallye B. Carpentier, individually and doing business as Brown-Potter Hearing Aid Center ("respondent").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids in Yellow Pages directories. The Commission's proposed complaint charges respondent with making false representations in her Yellow Pages advertising that medicare will pay for

the costs of hearing aids purchased from respondent. In fact, medicare will not pay for the costs of hearing aids purchased from respondent. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The proposed consent order contains provisions designed to prevent respondent from engaging in similar acts and practices in the future. It also requires respondent to post in offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondent from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondent from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondent to contact the publishers of all Yellow Pages directories in which the medicare claim appears to request that the claim that U.S. Government plans will pay for the costs of hearing aids be deleted from the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondent to provide corrective information for two years after the publication of the last directory in which the medicare claim appears. Respondent has a choice in how to provide the corrective information. She can either post a notice in her main office and each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondent may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE.

Other parts of the proposed order require respondent to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondent's business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8471 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3037]

Center for Improved Communications, et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the New York corporation and its officer to correct false and deceptive claims in Yellow Pages advertisements, prominently post corrected information about Medicare coverage in their offices or provide it to consumers prior to purchase, and would prohibit them from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service they offer in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580. (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(ii)).

Agreement Containing Consent Order To Cease and Desist

In the Matter of Center for Improved Communications, a corporation, and Jack Brown, individually and as an officer of Center for Improved Communications.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Center for Improved Communications, a corporation and of Jack Brown, individually and as an officer of said corporation, and it now appearing that Center for Improved Communications, a corporation, and Jack Brown, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed, by and between Center for Improved Communications, by its duly authorized officer, and Jack Brown, individually and as an officer of said corporation, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Center for Improved Communications is a New York corporation with its main office and principal place of business located at 9720 Flatlands Avenue, Brooklyn, New York 11236. Another office is located at 1301 57th Street, Brooklyn, New York 11219.

Proposed respondent Jack Brown is an audiologist who is an officer of Center for Improved Communications. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

Proposed respondents are, and have been, selling hearing aids and offering hearing tests to the public.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The

Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) Issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered That respondents Center for Improved Communications, a New York corporation, its successors and assigns, and its officers, and Jack Brown, individually and as an officer of said corporation; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

It is further ordered That respondents Center of Improved Communications, a corporation, its successors and assigns, and its officers, and Jack Brown, individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representations in Paragraphs Seven and Nine of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. The letter shall also state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing tests are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions, unless the representation is qualified by a statement that the hearing tests must be ordered in advance by a physician for medical diagnostic purposes. Respondents shall include a copy of this Order with the letter.

III.

It is further ordered That respondents Center for Improved Communications, a corporation, its successors and assigns, and its officers, and Jack Brown, individually and as an officer of said corporation, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondents do business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondents shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of service of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representations in Paragraphs Seven and Nine of the complaint.

IV.

It is further ordered, That respondents Center for Improved Communications, a corporation, its successors and assigns, and its officers, and Jack Brown, individually and as an officer of said corporation, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representations in Paragraphs Seven and Nine of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V.

It is further ordered, That respondents shall, within thirty (30) days after service upon them of this Order, distribute a copy of the Order to each of their operating divisions, subsidiaries, and related offices, to each of their

managerial employees, to each of their employees responsible for advertising, and to each of their officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI.

It is further ordered, That the corporate respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment, purchase, or sale resulting in a change of ownership or business structure, or any other change in respondent that may affect compliance obligations arising of this Order.

VII.

It is further ordered, That the individual respondent shall hereafter promptly notify the Commission in the event of the discontinuance of his present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Center for Improved Communications, a corporation, and Jack Brown, individually and as an officer of Center for Improved Communications.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids and hearing tests in Yellow Pages directories. The Commission's proposed complaint charges Center for Improved Communications and Jack Brown with making false representations in its Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from respondents. In fact, medicare will not pay for the costs of hearing aids purchased from respondents. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The complaint also charges Center for Improved Communications and Jack Brown with representing that medicare will pay for the costs of hearing tests provided by respondents. The complaint alleges that this representation is deceptive because it does not disclose the material information that medicare will only pay for the costs of tests if they are performed by order of a physician for purposes of obtaining additional information necessary for the physician's evaluation of the need for or the appropriate type of medical or surgical treatment for a hearing deficit or related medical problem.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. It also requires respondents to post in their offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondents from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondents from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondents to contact the publishers of all Yellow Pages directories in which the medicare claims appear to request that the claim that medicare covers the costs of hearing aids be deleted from, and the claim that medicare covers the costs of hearing tests be modified in, the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondents to provide corrective information for two years after the publication of the last directory in which the medicare claims appear. Respondents have a choice in how to provide the corrective information. They can either post a notice in their main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondents may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondents to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondents' business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8472 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

[File No. 922 3037]

Hearing Care Associates-Arcadia, et al.; Proposed Consent Agreement with Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the California firms and their officer to correct false and deceptive claims in Yellow Pages advertisements, and to prominently post corrected information about Medicare coverage in their offices or provide it to consumers prior to purchase, and would prohibit them from misrepresenting the coverage provided by any medical insurance for any hearing-related device or service they offer in the future.

DATES: Comments must be received on or before June 11, 1993.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary,

room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Collot Guerard, FTC/H–466, Washington, DC 20580, (202) 326–3338.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, corporations, and Hearing Care Associates-Alhambra, a partnership, and Gregory Frazer, individually and as an officer in said corporations and a partner in said partnership, and it now appearing that Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, corporations, and Hearing Care Associates-Alhambra, a partnership, and Gregory Frazer, individually and as an officer in said corporations and a partner in said partnership, hereinafter sometimes referred to as proposed respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, by their duly authorized officer, Hearing Care Associates-Alhambra, by its duly authorized partner, and Gregory Frazer, individually and as an officer in said corporations and a partner in said partnership, and their attorney, and counsel for the Federal Trade Commission that:

1. Proposed respondent Hearing Care Associates-Arcadia is a California corporation with its offices and principal place of business located at 612 West Duarte Road, Arcadia, California 91067.

Proposed respondent Hearing Care Associates-Glendora is a California corporation with its offices and principal place of business located at 210 South Grand Avenue, Glendora, California 91760.

Proposed respondent Hearing Care Associates-Los Angeles is a California corporation with its offices and principal place of business located at 1127 Wilshire Blvd., Los Angeles, California 90017.

Proposed respondent Hearing Care Associates-Panorama City is a California corporation with its offices and principal place of business located at 14425 Chase Street, Panorama City, California 91402.

Proposed respondent Hearing Care Associates-Alhambra is a partnership with its offices and principal place of business located at 7 West Main, Alhambra, California 91801.

Proposed respondent Gregory Frazer is an audiologist who is an officer of said corporations, and a partner in said partnership. He formulates, directs and controls the policies, acts and practices of said corporations and said partnership. His principal place of business is located at 14425 Chase Street, Panorama City, California 91402.

Proposed respondents are, and have been, selling hearing aids and offering hearing tests to the public.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) All rights under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of the agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered, That respondents Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, California corporations, and Hearing Care Associates-Alhambra, a

partnership, their successors and assigns, and their officers, and Gregory Frazer, individually and as an officer of said corporations and partner in said partnership; and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, affiliate, partnership, sole proprietorship, or other device, in connection with the advertising, promotion, sale, distribution or offering for sale of any hearing-related device or service in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of such device or service.

B. Misrepresenting, directly or by implication, in any manner that other types of medical insurance, whether federal, state, or private, will cover the costs of such device or service.

II.

It is further ordered, That respondents Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, corporations, and Hearing Care Associates-Alhambra, a partnership, their successors and assigns, and their officers, and Gregory Frazer, individually and as an officer of said corporations and partner in said partnership, within fifteen (15) days after this Order becomes final, send a certified letter to the publishers of all Yellow Pages directories that contain the representations in Paragraphs Seven and Nine of the complaint. The letter shall state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing aids are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions. The letter shall also state that any statements representing, directly or by implication, that medicare will pay for the costs of hearing tests are to be eliminated from the next appearing edition in which it is possible to make changes, and in all subsequent editions, unless the representation is qualified by a statement that the hearing tests must be ordered in advance by a physician for medical diagnostic purposes. Respondents shall include a copy of this Order with the letter.

III.

It Is further ordered, That respondents Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, corporations, and Hearing Care Associates-Alhambra, a partnership, their successors and assigns, and their officers, and Gregory Frazer, individually and as an officer of said corporations and partner in said partnership, within fifteen (15) days after this Order becomes final, either:

A. Post in each of the locations in which respondents do business, a prominent notice that is at least 12" by 15" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

This notice shall be clearly and conspicuously posted in the reception area so that it is visible to consumers as they enter the business location, and in each of the rooms where the hearing tests are conducted; or

B. Provide each consumer prior to any discussion about the consumer's hearing problem a notice that is at least 8½" by 11" in size that states clearly and conspicuously the following:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Respondents shall obtain the consumer's signature on the notice. The signed notices shall be available to representatives of the Federal Trade Commission for inspection for a period of three (3) years from the date of this Order.

C. The requirements described in (A) and (B) of this paragraph shall be followed for no less than two (2) years after the last date of distribution by the publisher to the general public of the Yellow Pages directories containing the representations in Paragraphs Seven and Nine of the complaint.

IV.

It is further ordered, That respondents Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, Hearing Care Associates-Panorama City, corporations, and Hearing Care Associates-Alhambra, a partnership, their successors and assigns, and their officers, and Gregory Frazer, individually and as an officer of said corporations and partner in said partnership, shall, for three (3) years after the date of this Order, maintain and upon request make available to representatives of the Federal Trade Commission for inspection and copying all records demonstrating compliance with this Order, including but not necessarily limited to:

(1) Communications with publishers of the Yellow Page directories regarding the representations in Paragraphs Seven and Nine of the complaint, and

(2) The notices required by paragraph III (A) and (B) above.

V.

It is further ordered, That respondents shall, within thirty (30) days after service upon them of this Order, distribute a copy of the Order to each of their operating divisions, subsidiaries, and related offices, to each of their managerial employees, to each of their employees responsible for advertising, and to each of their officers, agents, representatives or employees selling hearing aids and/or offering hearing tests.

VI.

It is further ordered, That the corporate and partnership respondents shall notify the Commission at least thirty (30) days prior to any proposed change in respondents such as dissolution, assignment, purchase, or sale resulting in a change of ownership or business structure, or any other change in respondents that may affect compliance obligations arising of this Order.

VII.

It is further ordered, That the individual respondent shall hereafter promptly notify the Commission in the event of the discontinuance of his present business or employment and, for a period of five (5) years from the date of service of this Order, shall promptly notify the Commission of each affiliation with a new business or a new employment whose activities would or might include the sale of hearing aids, and/or the offering of hearing tests, each such notice to include the respondent's new business address and a statement of the nature of such business or employment and a description of the respondent's expected duties and responsibilities.

VIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from four corporations, a partnership, and an individual who is an officer in the corporations and partner in the partnership ("proposed respondents"). The corporations are Hearing Care Associates-Arcadia, Hearing Care Associates-Glendora, Hearing Care Associates-Los Angeles, and Hearing Care Associates-Panorama City. The partnership is Hearing Care Associates-Alhambra. The individual is Gregory Frazer. Mr. Frazer is named individually and as an officer in the corporations and partner in the partnership.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns alleged false and deceptive advertising for hearing aids and hearing tests in Yellow Pages directories. The Commission's proposed complaint charges the respondents with making false representations in its Yellow Pages advertising that medicare will pay for the costs of hearing aids purchased from respondents. In fact, medicare will not pay for the costs of hearing aids purchased from respondents. A federal statute, 42 U.S.C. 1395y(a)(7), and the implementing regulations, 42 CFR 411.15(d), specifically exclude hearing aids from medicare coverage.

The complaint also charges respondents with representing that medicare will pay for the costs of hearing tests provided by respondents. The complaint alleges that this representation is deceptive because it does not disclose the material information that medicare will only pay for the costs of tests if they are performed by order of a physician for purposes of obtaining additional information necessary for the physician's evaluation of the need for or the appropriate type of medical or surgical treatment for a hearing deficit or related medical problem.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. It also requires respondents to post in their offices, or provide customers, certain corrective information.

Part I of the proposed consent order would prohibit respondents from misrepresenting, directly or by implication, in any manner that medicare will pay for the costs of any hearing related device or service. Part I would also prohibit the respondents from misrepresenting, directly or by implication, that other types of medical insurance, whether federal, state, or private, will cover the costs of such devices or services.

Part II of the proposed consent order requires respondents to contact the publishers of all Yellow Pages directories in which the medicare claims appear to request that the claim that medicare covers the costs of hearing aids be deleted from, and the claim that medicare covers the costs of hearing tests be modified in, the next edition in which it is possible to make changes, and in all subsequent editions.

Part III requires respondents to provide corrective information for two years after the publication of the last directory in which the medicare claims appear. Respondents have a choice in how to provide the corrective information. They can either post a notice in their main office and in each of the testing rooms in such a way that the notice is clear and conspicuous. Alternatively, respondents may provide each customer with a notice that provides the same information and request the customer to sign the notice. Under either alternative, the corrective information is as follows:

MEDICARE DOES NOT COVER THE COSTS OF HEARING AIDS. MEDICARE ALSO DOES NOT COVER THE COSTS OF HEARING TESTS CONDUCTED IN THIS OFFICE, UNLESS THE TESTS ARE FIRST ORDERED BY A PHYSICIAN FOR MEDICAL DIAGNOSTIC PURPOSES.

Other parts of the proposed order require respondents to keep the documents that demonstrate compliance with the order for three years, to notify the Commission about changes in respondents' business affiliation, ownership or structure, and to file compliance reports with the Commission.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 93–8476 Filed 4–9–93; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletins FTR 8 and 9]

Federal Travel Regulation; Reimbursement of Higher Actual Subsistence Expenses for Travel to Augusta, Georgia and Oshkosh, Wisconsin

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of bulletins.

SUMMARY: The attached bulletins inform agencies of the establishment of a special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia and Oshkosh (Winnebago County), Wisconsin.

EFFECTIVE DATES: This special rate is applicable to claims for reimbursement covering travel to Augusta, Georgia during the period April 4 through April 11, 1993; and to Oshkosh, Wisconsin during the period July 24 through August 7, 1993.

FOR FURTHER INFORMATION CONTACT: Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone 703–305–5745.

SUPPLEMENTARY INFORMATION: The Administrator of General Services, pursuant to 41 CFR 301–8.3(c) and at the official request of the Secretary of Transportation, has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 4 through April 11, 1993, and to Oshkosh (Winnebago County), Wisconsin for travel during the period July 24 through August 7, 1993. The attached GSA Bulletins FTR 8 and 9 are issued to inform agencies of the establishment of these special actual subsistence expense ceilings.

Dated: April 2, 1993.

Donna D. Bennett,

Deputy Assistant Commissioner, Transportation and Property Management.

2 Attachments

ATTACHMENT 1

[GSA Bulletin FTR 8]

April 2, 1993

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for travel to Augusta (Richmond County), Georgia.

1. *Purpose.* This bulletin informs agencies of the establishment of a

special actual subsistence expense ceiling for official travel to Augusta (Richmond County), Georgia. This special rate is applicable to claims for reimbursement covering travel during the period April 4, 1993, through April 11, 1993.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFR part 301–8) permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Augusta (Richmond County), Georgia for travel during the period April 4, 1993, through April 11, 1993. Agencies may approve actual subsistence expense reimbursement not to exceed $134.00 ($108.00 maximum for lodging and a $26.00 allowance for meals and incidental expenses) for travel to Augusta (Richmond County), Georgia, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1993.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Donna D. Bennett,

Deputy Assistant Commissioner, Transportation and Property Management.

ATTACHMENT 2

[GSA Bulletin FTR 9]

April 2, 1993

To: Heads of Federal agencies

Subject: Reimbursement of higher actual subsistence expenses for travel to Oshkosh (Winnebago County), Wisconsin.

1. *Purpose.* This bulletin informs agencies of the establishment of a special actual subsistence expense ceiling for official travel to Oshkosh (Winnebago County), Wisconsin. This special rate is applicable to claims for reimbursement covering travel during the period July 24, 1993, through August 7, 1993.

2. *Background.* The Federal Travel Regulation (FTR) (41 CFRpart 301–8) permits the Administrator of General Services to establish a higher maximum daily rate for the reimbursement of actual subsistence expenses of Federal employees on official travel to an area within the continental United States. The head of an agency may request establishment of such a rate when special or unusual circumstances result in an extreme increase in subsistence costs for a temporary period.

3. *Maximum rate and effective date.* The Administrator of General Services, pursuant to 41 CFR 301–8.3(c), has increased the maximum daily amount of reimbursement that may be approved for actual and necessary subsistence expenses for official travel to Oshkosh (Winnebago County), Wisconsin for travel during the period July 24, 1993, through August 7, 1993. Agencies may approve actual subsistence expense reimbursement not to exceed $150.00 ($120.00 maximum for lodging and a $30.00 allowance for meals and incidental expenses) for travel to Oshkosh (Winnebago County), Wisconsin, during this time period.

4. *Expiration date.* This bulletin expires on September 30, 1993.

5. *For further information contact.* Jane E. Groat, General Services Administration, Transportation Management Division (FBX), Washington, DC 20406, telephone FTS or commercial 703–305–5745.

By delegation of the Commissioner, Federal Supply Service.

Donna D. Bennett,

Deputy Assistant Commissioner, Transportation and Property Management.

[FR Doc. 93–8458 Filed 4–9–93; 8:45 am]

BILLING CODE 6820–24F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research; Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C. Appendix 2), announcement is made of the following advisory subcommittee scheduled to meet during the month of April 1993:

Name: Electronic Patient Data Systems: Small Business Innovation Research, Topic 005.

Dates and Times: April 12–13, 1993, 9: a.m.

Place: Marriott Residence Inn, 7335 Wisconsin Avenue, Montgomery Room, Bethesda, Maryland 20814.

This meeting will be closed to the public.

Purpose: The Subcommittee's charge is to provide, on behalf of the Health Care Policy and Research Contracts Review Committee, advice and recommendations to the Secretary and to the Administrator, Agency for Health Care Policy and Research (AHCPR), regarding the scientific and technical merit of contract proposals submitted in response to a specific Request for Proposals. The purpose of this contract is to develop a prototype computer-based patient information system that includes clinical data that will be useful to both clinicians and health services researchers. The data will represent demographic, diagnostic, intervention, and patient outcome characteristics, and form a pool from which a minimum data set can be abstracted. The information system will incorporate and build upon current information technologies, including open architecture to facilitate software transportability.

Agenda: The session of this Subcommittee will be devoted entirely to the technical review and evaluation of contract proposals submitted in response to a specific Request for Proposals. The Administrator, AHCPR, has made a formal determination that this meeting will not be open to the public. This is necessary to protect the free exchange of views and avoid undue interference with Committee and Department operations, and safeguard confidential proprietary information and personal information concerning individuals associated with the proposals that may be revealed during the sessions. This is in accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. Appendix 2, Department regulations, 45 CFR 11.5(a)(6), and procurement regulations, 48 CFR 315.604(d).

Anyone wishing to obtain information regarding this meeting should contact Karen Harris, Office of Management, Contracts Management Branch, Agency for Health Care Policy and Research, Executive Office Center, 2101 E. Jefferson Street, Suite 601, Rockville, Maryland 20852, (301) 227–8441.

Dated: April 2, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93–8483 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–90–U

Centers for Disease Control and Prevention

[Announcement Number 304]

Cooperative Agreement To Establish an Office Information System in a County-Based Medical Examiner's Jurisdiction; of Availability of Funds for Fiscal Year 1993

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1993 funds for a cooperative agreement with a county-based medical examiner jurisdiction serving a population of 2.5 million or more to establish an office

automation system in order to improve the quality and availability of surveillance data on deaths investigated by that office.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority areas of Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see WHERE TO OBTAIN ADDITIONAL INFORMATION section.)

Authority

This program is authorized under the Public Health Service Act, section 301 [42 U.S.C. 241].

Eligible Applicants

Eligible applicants are county-based medical examiner jurisdictions serving populations in excess of 2.5 million (a jurisdiction may be composed of one or more counties but should not be construed to consist of an entire state). Using 1990 U.S. Census data, this announcement is limited to the following offices: New York City (composed of Kings, Queens, Bronx, Richmond, and New York boroughs), Los Angeles County (CA), Cook County (IL), Harris County (TX), and San Diego County (CA).

Large metropolitan areas—those with a population exceeding 2.5 million—have large numbers of sudden, unexpected deaths. Information on these deaths is of interest to researchers and public health officials. For this reason, a medical examiner office serving a population in excess of 2.5 million has been identified as the best site to develop a model automated system which could be replicated nationally.

Availability of Funds

Approximately $190,000 will be available in FY 1993 to support one cooperative agreement award. It is expected that the award will begin on or about September 1, 1993, and will be made for a 12-month budget period within a 1-year project period.

Purpose

The purpose of this cooperative agreement is to establish a model automated office information system for a large metropolitan area medical examiner's office (1) to collect comprehensive and uniform data on investigated deaths, (2) to monitor trends and identify risk factors for deaths resulting from violence, drug and alcohol abuse, and other causes of sudden death, and (3) to identify new or emerging causes of sudden and unexpected deaths. This system will aid state and local health agencies, CDC, and other Federal agencies by allowing the timely transfer of medical examiner data among these agencies.

Program Requirements

In conducting activities to achieve the objectives of this agreement, the recipient shall be responsible for conducting activities under A., below; and CDC shall be responsible for conducting activities under B., below.

A. Recipient Activities

1. Improve the quality and availability of data on deaths investigated by the medical examiner's office by establishing a computerized office information system.

2. Set up a local computer network conforming to industry and government standards and a multiuser database that can:

(a) store date/time, numeric and textual data, laboratory results, and graphic images obtained in Medical Examiner cases;

(b) search for and retrieve cases of interest interactively;

(c) allow searching of textual portion of autopsy and investigation reports and listing of cases based on textual searching;

(d) verify consistency of case data and perform other quality assurances/quality control procedures;

(e) allow users to define report formats and produce reports independently; and

(f) allow data in the database to be accessed by other computer software, such as software for statistical analysis and natural language processing.

3. Produce electronic data files in structured ASCII format that can be readily shared with state and local health agencies, CDC, and other Federal agencies.

4. Install telecommunications or wide-area networking equipment and software that will allow exchange of data between the medical examiner's office and authorized users.

B. CDC Activities

1. Provide technical assistance on data format, database design and content, selection of hardware, operating system and database management software.

2. Collaborate in the production of statistical reports needed by the medical examiner's office, other city offices, state and local law enforcement agencies, and Federal agencies.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Need (three parts): Maximum 40 points.

a. The number of cases *investigated* annually. Maximum 20 points, assigned as follows:

No. of cases investigated annually	Score
Less than 4,999	4 points
5,000 - 9,999	8 points
10,000 - 14,999	12 points
15,000 - 19,999	16 points
Over 20,000	20 points.

b. The number and types of requests for information received by the office annually. Maximum 10 points.

c. The extent to which the applicant demonstrates a lack of and a need for an automated office information system—the greater the demonstrated need, the greater the number assigned. Maximum 10 points.

2. Capacity (two parts): Maximum 30 points.

a. The extent to which the office demonstrates its ability to obtain or provide the expertise to complete this project. Maximum 20 points.

b. The extent to which the office is representative of other offices, and as such, would be an appropriate site for the development of a national model. Maximum 10 points.

3. Methods/Activities (two parts): Maximum 20 points.

a. The quality of the applicant's proposed plan to develop (or enhance) an office information system, and the degree to which such plan is realistic, conforms to Federal Information Processing Standards, and meets the intended purpose of the funding. Maximum 10 points.

b. The extent to which the applicant demonstrates the interest, ability, and willingness to share data with local government agencies, as well as CDC and other Federal agencies. Maximum 10 points.

4. Evaluation: Maximum 10 points.

The adequacy of the applicant's plan to monitor progress toward meeting the objectives of the project.

5. Budget: Not scored.

The extent to which the budget is reasonable, adequately justified, and consistent with the intended use of the grant funds.

Executive Order 12372 Review

The intergovernmental review requirements of Executive Order 12372, as implemented by DHHS regulations in

45 CFR part 100, are applicable to this program. Executive Order 12372 provides a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert the SPOC to the prospective applications and to receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305. The due date for state process recommendations is 60 days after the application deadline date for new and competing continuation awards. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1, must be submitted to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 255 East Paces Ferry Road, NE., room 300, Mail Stop E–13,Atlanta, GA 30305, on or before June 1, 1993.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (The applicant must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. are considered late applications. A late application will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description and information on application procedures, an application package and business management technical assistance may be obtained from Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mail Stop E–13, Atlanta, GA 30305; (404) 842–6796. Programmatic technical assistance may be obtained from Gib Parrish, M.D. or Roy Ing, M.D., Surveillance and Programs Branch, Division of Environmental Hazards and Health Effects, National Center for Environmental Health, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway NE. (Mail Stop F–35), Atlanta, GA 30341–3724; (Telephone 404–488–7060).

Please refer to Announcement Number 304 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, (Telephone 202–783–3238).

Dated: April 5, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–8439 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–18–P

Food and Drug Administration

[Docket No. 92N–0458]

Jacob H. Rivers; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Mr. Jacob H. Rivers, a/k/a Jack Rivers, #28371–037, FPC Petersburg, P.O. Box 1000, Petersburg, VA 23804–1003, from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Rivers was convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Rivers has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: April 12, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION:

I. Background

On July 10, 1992, the United States District Court for the District of Maryland entered judgment against Mr. Jacob H. Rivers for two counts of aiding and abetting the making of a false statement to a Federal agency and one count of aiding and abetting the obstruction of an agency proceeding, Federal felony offenses under 18 U.S.C. 1001, 18 U.S.C. 1505, and 18 U.S.C. 2.

As a result of these convictions, FDA served Mr. Rivers by certified mail on January 14, 1993, a notice proposing to permanently debar him from providing services in any capacity to a person that has an approved or pending drug product application and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that he was convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Rivers did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, as Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to me (21 CFR 5.20), I find that Mr. Jacob H. Rivers has been convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Jacob H. Rivers is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective April 12, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Rivers in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Rivers, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application from Mr. Rivers during his period of debarment.

Any application by Mr. Rivers for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 92N–0458 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–8485 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 92N–0422]

Raju Vegesna; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under section 306(a)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 335a(a)(2)) permanently debarring Mr. Raju Vegesna from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Vegesna was convicted of a felony under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Vegesna has failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

EFFECTIVE DATE: April 12, 1993.

ADDRESSES: Application for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Megan L. Foster, Center for Drug Evaluation and Research (HFD–366), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8041.

SUPPLEMENTARY INFORMATION:

I. Background

On July 30, 1990, the United States District Court for the District of Maryland entered judgment against Mr. Raju Vegesna for two counts of aiding and abetting interstate travel in aid of racketeering, a Federal felony offense under 18 U.S.C. 1952 and 18 U.S.C. 2.

As a result of these convictions, FDA issued a **Federal Register** notice on January 12, 1993 (58 FR 3958), proposing to permanently debar Mr. Vegesna from providing services in any capacity to a person that has an approved or pending drug product application and offered him an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) and (a)(2)(B) of the act, that he was convicted of a felony under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product; and (2) relating to the regulation of a drug product under the act. Mr. Vegesna did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, as Deputy Commissioner for Operations, under section 306(a) of the act, and under authority delegated to me (21 CFR 5.20), I find that Mr. Raju Vegesna has been convicted of felonies under Federal law for conduct (1) relating to the development and approval, including the process for development and approval, of a drug product (21 U.S.C. 335a(a)(2)(A)); and (2) relating to the regulation of a drug product (21 U.S.C. 335a(a)(2)(B)).

As a result of the foregoing findings, Mr. Raju Vegesna is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 507, 512, or 802 of the act (21 U.S.C. 355, 357, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), effective April 12, 1993 (21 U.S.C. 335a(c)(1)(B) and (c)(2)(A)(ii) and 21 U.S.C. 321(ee)). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Vegesna in any capacity, during his period of debarment, will be subject to civil money penalties. If Mr. Vegesna, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties. In addition, FDA will not accept or review any abbreviated new drug application or abbreviated antibiotic drug application from Mr. Vegesna during his period of debarment.

Any application by Mr. Vegesna for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 92N–0422 and sent to the Dockets Management Branch (address above). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1993.

Jane E. Henney,

Deputy Commissioner for Operations.

[FR Doc. 93–8484 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Availability of Funds for Community and Migrant Health Center Activities, for the Provision of Technical and Other Non-Financial Assistance to Community and Migrant Health Centers, and for Cooperative Agreements To Support Community and Migrant Health Centers

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of availability of funds.

SUMMARY: The Health Resources and Services Administration announces the availability of discretionary grant funds of approximately $620 million in fiscal year (FY) 1993 for Community and Migrant Health Center (C/MHC) activities including grants for the operation of C/MHCs, capital improvements, cooperative agreements to support C/MHCs and other community-based providers of primary care, and awards for the provision of technical and other non-financial assistance to C/MHCs.

This announcement is made to assure that continuation grants can be awarded in a timely fashion consistent with the needs of the program as well as to provide for distribution of funds throughout the fiscal year. A subsequent notice will be issued in the **Federal Register** to announce the availability of approximately $18 million to support new start and expansion grants and a minimal number of planning grants for future new starts and expansions.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS led national activity for setting priority areas. The health center program directly addresses the Healthy People 2000 objectives by improving access to preventive and primary care services for underserved populations, especially minority and other disadvantaged populations. Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–01) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–01) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

APPLICATION DEADLINES: Applications shall be considered to have met the deadline if they are: (1) received on or before the deadline; or (2) sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.) Late applications not accepted for processing will be returned to the applicant. Deadlines are as follows:

SECTIONS 329 AND 330 FUNDS: Competing continuation applications for section 329 and/or 330 funds to provide essential services are due 120 days prior to the expiration of the current project period award unless otherwise specified (for a list of service areas with expiring project periods, see **Federal Register** notice published on September 10, 1992, 57 FR 41506 *et seq*). Non-competing continuation applications are due 120 days prior to the expiration of the current budget period.

TECHNICAL AND OTHER NON-FINANCIAL ASSISTANCE AND COOPERATIVE AGREEMENTS: Competing and non-competing continuation cooperative agreements under sections 333(d), 330(f)(1) and 329(g)(1) and competing and non-competing continuation applications to provide technical and other non-financial assistance under sections 333(d), 330(f)(1) and 329(g)(1) must be received no later than February 1, 1993, unless otherwise specified. New proposals for technical and other non-financial assistance under sections 333(d), 330(f)(1) and 329(g)(1) and proposals for new cooperative agreements under sections 333(d), 330(f)(1) and 329(g)(1) must be received no later than July 1, 1993.

CAPITAL: In order to be considered for funding, major capital applications must be received no later than April 1, 1993, and the eligible entities were so notified. Minor capital improvements may be included with the ongoing Section 329 or 330 application as an improvement request or as an emergency supplemental request at any time during the fiscal year.

ADDRESSES: The PHS Regional Grants Management Officers (RGMOs), whose names and addresses are provided in the appendix to this document, are responsible for distributing application kits and guidance (PHS form 5161–1 with revised face sheets DHHS Form 424, as approved by the Office of Management and Budget (OMB) under control numbers 0937–0189). Completed applications must be submitted to them. The kits and guidance will be sent to existing grantees while new applicants should contact the appropriate RGMO. The RGMOs are available to provide assistance on business management issues.

FOR FURTHER INFORMATION CONTACT: For technical assistance and general program information about the availability of section 329, 330, 330(f)(1) and 333(d) funds, contact Richard C. Bohrer, (301) 443–2260. For additional information about funding under section 329(g)(1), contact Antonio Duran, (301) 443–1153. Additional information about current 329 and 330 comprehensive perinatal care activities can be obtained from Jeanellen Kallevang (301) 443–7587.

SUPPLEMENTARY INFORMATION:

A. General Primary Care Services Delivery

Grant Amounts

It is estimated that approximately $521.7 million in discretionary continuation grants for CHC activities (i.e., approximately $478.7 million for general primary care services delivery and $43 million for Comprehensive Perinatal Care Program (CPCP) activities) and approximately $57 million in discretionary grants for continuation of MHC activities (i.e., approximately $55 million for general primary care services delivery and $2 million for CPCP activities) will be available under sections 330 and 329 of the Public Health Service (PHS) Act (42 U.S.C. 254c and 254b, respectively). Of the $45 million for Comprehensive Perinatal Care Program activities, approximately $10 million will be for the infant mortality reduction initiative in C/MHCs.

Number of Awards

A total of approximately 571 C/MHC grants will be made available, of which approximately 244 ($248 million) will be for competing continuation grants and approximately 327 ($330.7 million) will be for noncompeting continuation grants. Approximately 305 of these grants will include CPCP activities. Grants will range from approximately $200,000 to approximately $2 million for general primary care services delivery (C/MHC). Grants will range from approximately $40,000 to approximately $450,000 for Comprehensive Perinatal Care program activities in C/MHCs. Awards will be made for a one year budget period. Project periods will be for up to three years.

Eligible Applicants

It is the intent of HRSA to continue to support health services in the service areas of currently funded C/MHCs, given the unmet need inherent in their designation as medically underserved. Within their project periods, only

present grantees may apply for sections 329 and 330 awards to continue to provide health services in medically underserved areas. However, any non-profit private and public entities may apply to serve the geographic areas where project periods are expiring.

Review Criteria

When determining whether Federal support will be made available for continuing awards, the Department will review C/MHCs for compliance with standard criteria stipulated in the program regulations (42 CFR part 51c for CHC and part 56 for MHC activities) and for how effectively they have used previously awarded sections 330 and 329 funds. This year's reviews will continue to emphasize need and community impact, health services, management and finance, and governance. Specifically, applications will be evaluated based on: (1) The demonstrated need for services based on geographic, demographic, and economic factors, resources in the area, and health status; (2) the capacity to provide primary health services as appropriate to meet the needs of the community, as evidenced by such attributes as an adequate medical provider staff (e.g., number, specialty mix, and qualifications), critical linkages to other relevant entities (e.g., State or local health departments, State Medicaid agencies, health professions training programs), and coordination with other levels of care; (3) appropriate leadership, management structures and financial systems to enable delivery of health services efficiently and effectively; (4) appropriateness of governing board composition, committee structure, and performance to enable the board to function fully and effectively in its fiduciary role; and (5) the degree to which the applicant intends to integrate services supported by this grant with health services provided under other federally assisted programs.

B. Capital Improvements

Approximately $5 million will be available to support major and minor capital improvements. Major capital improvements include: Facility acquisition, construction, alteration, renovation and modernization. Major capital requests are requests for Federal grant support in excess of $100,000 and will fall into one of two categories: (1) Proposals to correct major fire and life safety code violations; and (2) other major capital proposals such as to acquire or construct a new facility or to acquire, modernize or expand the existing site. Minor capital improvements are requests for Federal grant support of less than $100,000. Emphasis will be given to proposals to correct existing fire and life safety code violations, particularly violations that disrupt the delivery of primary care services and may pose a danger to health center patients and staff. Fire and life safety code violations include those that are cited or clearly documented.

Review Criteria

Applications for major capital will be reviewed against the following criteria: (1) Documented community need for continued service delivery; (2) extent of the facility need; (3) appropriateness of site selection; (4) availability of other sources of proposed financing; and (5) soundness of the proposal. Awards will be issued by September 30, 1993, except for minor capital improvements which may be made sooner, depending on the nature of the building deficiency.

C. Comprehensive Perinatal Care Program

Eligible Applicants

All Comprehensive Perinatal Care Program (CPCP) awards are expected to be made to current recipients of CPCP funding which are performing satisfactorily.

Review Criteria

The review criteria for Comprehensive Perinatal Care Program (CPCP) competing continuations, including the special initiative to reduce infant mortality in C/MHCs, are: (1) The extent to which the current and proposed basic center operations are sound; (2) the extent to which infants born to the center's perinatal users are at high risk for mortality and/or morbidity; (3) the extent to which the previous CPCP funding has been used to enhance the basic perinatal services of the center, such as by provision of case management (risk assessment, coordination and referral, follow-up and tracking, crisis intervention and documentation), outreach to targeted special populations (e.g., homeless, HIV-infected, substance abusing, teenaged populations), patient education and counseling, and home visiting; (4) the capability of the center to improve perinatal health as demonstrated through various process and outcome measures of progress, such as increased perinatal caseload, increased first trimester enrollment, reduced late or absent entry into care, increased post partum return rate, reduced incidence of low birth weight, and increased newborn visits (an increase in perinatal caseload may also be a process indicator of progress in reaching out to women to get them into care early); and (5) the extent to which the plan is reasonable in that it: (a) Addresses the specific perinatal care needs of the community, focusing on women and infants at high risk of poor health status; (b) further develops an appropriate system of care which includes collaboration with other resources; (c) contains specific time-framed, measurable objectives, responsive to the CPCP expectations and the clinical measures; and (d) contains an associated budget which is appropriate for the proposal in that it is in accordance with Federal cost principles and corresponds to the proposed activities.

D. Cooperative Agreements

Grant Amounts

It is anticipated that approximately $8.0 million will be made available to support cooperative agreements with qualified statewide organizations. It is also anticipated that approximately $700,000 will be made available for awards to national organizations to provide assistance in the development and coordination of primary health care services in needy areas.

Number of Awards

Approximately 56 statewide cooperative agreements will be awarded, the majority of which will be for approximately $100,000. Up to 4 of these awards may be new. There will be 4 national cooperative agreements awarded, ranging from $125,000 to $200,000. Awards for statewide and national cooperative agreements will be made for a one year budget period. Project periods will be for up to three years.

Eligible Applicants

Statewide cooperative agreements are anticipated to be awarded primarily to existing continuation grantees. An applicant must be an agency of State government; a statewide public or private nonprofit entity that operates solely within one state; or a national organization that represents State, local or community-based health constituencies, and that satisfies the Secretary that it is able to meet program requirements.

Review Criteria

Applicants for statewide cooperative agreements will be evaluated according to their ability to perform State-specific activities in each of five program areas: (1) Health care financing; (2) health care providers; (3) maternal and child health; (4) other special populations; and (5)

primary care systems development. Appropriate activities for cooperative agreements include, but are not limited to: identifying and securing designation of health professional shortage areas (HPSA) and determining the need for National Health Service Corps (NHSC) and other primary care providers; assisting C/MHCs and other community-based organizations and primary care providers in areas of high need in recruiting and retaining health care personnel; promoting the use of State resources (including Medicaid, Maternal and Child Health and special population funding) for primary care purposes; promoting partnerships and affiliations with State and local health departments, State Medicaid agencies, Area Health Education Centers, hospitals, specialty and social service providers and primary care residency training programs; coordination of activities with PHS and NHSC State loan repayment activities and other State health professions loan repayment/scholarship programs and programs encouraging students to pursue careers in primary care, including the expansion of the number of student and resident training opportunities in underserved areas; and planning and resource development for activities in support of the perinatal life cycle as well as activities targeted towards special needs groups such as the homeless, substance abusers, HIV-infected individuals, the elderly, and migrant/seasonal farmworkers.

In addition to performing State-specific activities in the five program areas identified above, all recipients are expected to address the following key activities: (1) In the area of health care providers, (a) recipients will be required to define by July 1, 1993, the roles of the Cooperative Agreement (CA) recipient, State and Regional Primary Care Association (S/RPCA), Regional Office (RO) and any other entities in achieving and maintaining formal clinician need designations, (b) by July 1, 1993, to define the roles of the CA recipient, S/RPCA, RO and any other entities in recruitment/retention activities and (c) by October 31, 1993, to develop a report on interdisciplinary practice models, in coordination with the RO and the S/RPCA if there is one; and (2) in the area of primary care systems development, (a) recipients will be required by January 15, 1994, to develop a complete version of the Primary Care Access Plan which addresses each county in the State, and which includes an update of the interventions section of the plan and (b) by July 15, 1993, the recipient is expected to develop a written plan in collaboration with the S/RPCA, if there is one, and the RO on the assurance of community development and other technical assistance for communities identified as high priorities for interventions in the primary care access plan.

Additionally, recipients in States with Healthy Start grantees are expected in the area of maternal and child health to assure technical assistance to the community-wide coalitions responsible for the Healthy Start Initiative.

Preference for funding one-time improvement packages for State Primary Care cooperative agreements will be given to: service education linkages; community development in targeted areas; and the assurance of access in the implementation of managed care programs. These requests will be held for review during the fourth quarter of the fiscal year with awards being made by September 30, 1993.

All national organizations seeking cooperative agreements will be evaluated according to their ability to address activities in one or more of the following areas: (1) Enhanced access to primary care, especially for emerging populations such as persons with HIV infection/AIDS; (2) retention and recruitment of health care providers in medically underserved areas and to serve medically underserved populations; (3) health care services for minorities; and (4) management and enhanced financing for primary care services.

Federal Responsibilities Under Cooperative Agreements

Federal responsibilities under the statewide cooperative agreements, in addition to the usual monitoring and technical assistance provided under grants, will include the following: (1) The exercise of responsibility for final authority on the award of Federal grants, Federal health personnel placement, and overall program management of Federal resources in the context of fulfilling the State program as developed under the agreement; (2) the detail or assignment of Federal personnel to the statewide organization; (3) the recruitment and assignment of NHSC personnel in accordance with the program developed under the cooperative agreement; and (4) participation in the development and approval of statewide plans at various stages during their development.

E. Technical and Other Non-Financial Assistance

Grant Awards

It is anticipated that approximately $10.0 million in discretionary grants will be awarded to provide technical and other non-financial assistance (including awards to national organizations).

Number of Awards

Up to 40 awards, the majority of which will amount to approximately $100,000, will be made, primarily to continuation grantees for the performance of State-specific and/or regional activities. Up to 5 awards may be new. Approximately 5 national awards ranging from $125,000 to $1.2 million will be made. Awards will be made for a one year budget period. Project periods will be for up to three years.

Eligible Applicants

Eligible applicants are private nonprofit entities, including (but not limited to) national, regional and State associations. For the purpose of carrying out these legislative authorities, technical and other non-financial assistance provides a three tiered approach on the national, State or regional, and local levels. National level technical and other non-financial assistance increases skill levels at the macro level around overarching issues, program expectations and national trends in areas affecting C/MHCs. Programs focus on enhancing skills of senior-level staff such as Executive and Medical Directors and Board members. National technical and other non-financial assistance also addresses the need for guidance materials and technical publications for use at State, regional and C/MHC levels. Such assistance is especially critical for assisting HRSA in carrying out new programmatic responsibilities, e.g., infant mortality and C/MHC new start/expansion. National assistance permits information and expectations to be communicated directly to C/MHCs and also to the State and regional levels where the primary responsibility is vested for application and implementation assistance. Regional technical and other non-financial assistance refers to a cluster of States, while State-based assistance relates specifically to a single State. At either level, the assistance addresses the application/implementation of national policies, priorities, concerns and expectations, in the context of the regional or State environment. Technical and other non-financial

assistance at the local level provides assistance at the health center or at a potential health center and is customized to address a specific need or needs of the health center or community.

Review Criteria

Applicants for funding to provide technical and other non-financial assistance to C/MHCs and other similar providers will be evaluated according to their ability to perform State-specific activities in each of five program areas: (1) Health care financing; (2) health care providers; (3) maternal and child health; (4) other special populations; and (5) primary care systems development. Appropriate activities for grantees include: promoting the use of State resources (including Medicaid, Maternal and Child Health and special population funding) for primary care purposes; assisting C/MHCs and other similar providers in preparing their applications for Federal, State and local funding; providing training and technical assistance in management and governance; developing shared services and joint purchasing arrangements; assisting C/MHCs and other similar providers in recruiting and retaining primary care providers; promoting partnerships and affiliations with State and local health departments, State Medicaid agencies, Area Health Education Centers, hospitals, specialty and social service providers and residency programs; coordinating activities with PHS and NHSC State loan repayment activities, and other State health profession loan repayment/scholarship programs and programs encouraging students to pursue careers in primary care; and planning and developing resources for activities in support of pregnant women and children, as well as activities targeted towards special needs populations such as the homeless, substance abusers, HIV-infected individuals, the elderly and migrant/seasonal farmworkers.

In addition to performing State-specific activities in the program areas identified above, recipients are expected to perform the following key activities in the three following program areas: (1) In the area of health care financing, recipients will be required to participate in activities to fully implement Medicaid and Medicare Federally Qualified Health Center (FQHC) activities—with particular attention to managed care initiatives and their impact on underserved populations; (2) in the area of health care providers, recipients will be required to participate in (or, if there is no CA recipient, have responsibility for) a report on interdisciplinary practice models; and (3) in the area of primary care access, recipients will be required to assure community development and other technical assistance for high priority interventions identified in the primary care access plan. In addition, recipients are required to participate in (or, if there is no CA recipient, have responsibility for) the primary care plan update.

Additionally, in States with Healthy Start grantees, in the area of maternal and child health, recipients will be expected to provide technical assistance to community-based primary care provider consortia participants and to the community-wide coalitions responsible for the Healthy Start Initiative.

Preference for funding one-time improvement packages for S/RPCAs will be given to: Service education linkages; community development in targeted areas; and the assurance of access in the implementation of managed care programs. Some of these requests may be held for review during the fourth quarter of the fiscal year with awards being made by September 30, 1993.

All recipients of national awards will be evaluated according to their ability to address activities in one or more of the following preference areas: (1) Enhanced access to primary care; (2) recruitment and retention of health providers; (3) improved management for primary care services; (4) health care services for special populations; (5) integration/collaboration with public and other external organizations; (6) clinical strategies for primary care clinicians; and (7) environmental and occupational services.

Other Award Information

All grants to be awarded under this notice are subject to the provisions of Executive Order 12372, as implemented by 45 CFR part 100, which allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. The application kits will contain a listing of States which have chosen to set up such a review system and will provide a point of contact in the States for that review. Applicants (other than Federally recognized Indian Tribal governments) should contact their State Single Points of Contact (SPOCs) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. State process recommendations should be submitted to the appropriate Regional Office (see Appendix). The due date for State process recommendations is 60 days after the appropriate application deadline date. The Bureau of Primary Health Care does not guarantee that it will accommodate or explain its response to State process recommendations received after this date.

In addition, all grants to be awarded under this notice are subject to the Public Health System Reporting Requirements (as approved by the OMB under control numbers 0937–0195). Under these requirements, the community-based nongovernmental applicant must prepare and submit a Public Health System Impact Statement (PHSIS). The PHSIS is intended to provide information to State and local health officials to keep them apprised of proposed health services grant applications submitted by community-based nongovernmental organizations within their jurisdictions. Community-based nongovernmental applicants are required to submit the following information to the head of the appropriate State and local health agencies in the area(s) to be impacted no later than the Federal application receipt due date: (1) A copy of the face page of the application (SF 424); and (2) a summary of the project (PHSIS), not to exceed one page, which provides a description of the population to be served, a summary of the services to be provided and a description of the coordination planned with the appropriate State or local health agencies.

In the OMB Catalog of Federal Domestic Assistance, the Community Health Center program is listed as Number 93.224; the Migrant Health Center program is Number 93.246; the program of technical and other non-financial assistance, including national organizations is Number 93.129; and the Cooperative Agreements program, including national organizations, for development and coordination of comprehensive primary care services is Number 93.130.

Opportunity for Comment

Interested persons are invited to comment on the proposed funding preferences for cooperative agreements and technical and other non-financial assistance. Normally, the comment period would be 60 days. However, due to the need to implement any changes for the fiscal year 1993 award cycle, the comment period has been reduced to 30 days. All comments received on or before May 12, 1993 will be considered before the proposed funding preferences are finalized.

Written comments should be addressed to: Richard C. Bohrer, Director of Primary Care Services, Bureau of Primary Health Care, Health Resources and Services Administration, 5600 Fishers Lane, room 7A–55, Rockville, MD 20857 (301) 443–2260. All comments received will be available for public inspection and copying at the Division of Primary Care Services, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Dated: February 10, 1993.

Robert G. Harmon,

Administrator

Appendix—Regional Grants Management Officers

Region I

Mary O'Brien, Grants Management Officer, PHS Regional Office I, John F. Kennedy Federal Building, Boston, MA 02203, (617) 565–1482

Region II

Steven Wong, Grants Management Officer, PHS Regional Office II, room 3300, 26 Federal Plaza, New York, NY 10278, (212) 264–4496

Region III

Martin Bree, Acting Grants Management Officer, PHS Regional Office III, P.O. Box 13716, Philadelphia, PA 19101, (215) 596–6653

Region IV

Wayne Cutchens, Grants Management Officer, PHS Regional Office IV, room 1106, 101 Marietta Tower, Atlanta, GA 30323, (404) 331–2597

Region V

Lawrence Poole, Grants Management Officer, PHS Regional Office V, 105 West Adams Street, 17th Floor, Chicago, IL 60603, (312) 353–8700

Region VI

Joyce Bailey, Grants Management Officer, PHS Regional Office VI, 1200 Main Tower, Dallas, TX 75202, (214) 767–3885

Region VII

Michael Rowland, Grants Management Officer, PHS Regional Office VII, room 501, 601 East 12th Street, Kansas City, MO 64016, (816) 426–5841

Region VIII

Susan Jaworowski, Acting Grants Management Officer, PHS Regional Office VIII, 1961 Stout Street, Denver, CO 80294, (303) 844–4461

Region IX

Al Tevis, Acting Grants Management Officer, PHS Regional Office IX, 50 United Nations Plaza, San Francisco, CA 94102, (415) 556–2595

Region X

James Tipton, Grants Management Officer, PHS Regional Office X, Mail Stop RX 20, 2201 Sixth Avenue, Seattle, WA 98121, (206) 553–7997.

[FR Doc. 93–8412 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–15–P

Program Announcement and Proposed Review Criteria and Funding Priority for Grants for Professional Nurse Traineeships for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1993 Grants for Professional Nurse Traineeships under the authority of section 830, title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Pub.L. 102–408, dated October 13, 1992. Comments are invited on the proposed review criteria and funding priority.

Approximately $14,000,000 will be available in FY 93 for Grants for Professional Nurse Traineeships. It is anticipated that 160 awards will be made ranging from $50,000 to $150,000.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1992, HRSA reviewed 225 applications for Grants for Professional Nurse Traineeships. Of those applications, 100 percent were approved. In FY 1991, HRSA reviewed 217 applications for Grants for Professional Nurse Traineeships. Of those applications, 100 percent were approved. As a result of the 1992 amendments, FY 1993 applications will be subject to peer review.

Purpose

Section 830 of the Public Health Service Act authorizes the Secretary to award grants to meet the cost of traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education. Federal support can be requested for up to 2 years.

Eligibility

Eligible applicants for Grants for Professional Traineeships include public and nonprofit private entities. Applicants must agree that, in providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332. The applicant must agree that a traineeship will not be provided to an individual enrolled in a masters of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant. Finally, the applicant must agree that traineeships provided with the grant will pay all or part of the costs of (A) the tuition, books, and fees of the program of nursing with respect to which the traineeships is provided; and (B) reasonable living expenses of the individual during the period for which the traineeship is provided.

National Health Objectives for the Year 2000

The Public Health Service urges applicants to submit work plans that address specific objectives of Healthy People 2000. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017–001–00474–0) or *Healthy People 2000* (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Proposed Review Criteria

The following criteria are proposed for review of applications for this program:

1. Program information including the level and category of program(s) offered full-time enrollment, and the number of graduate students completing degree requirements, and information on other financial aid available to students.

2. The extent to which the applicant offers courses which include a clinical focus on providing health care to medically underserved communities.

3. The extent to which the applicant offers didactic and/or clinical courses which address issues of cultural diversity, special needs of minority populations, and/or promote the development of cultural competence.

4. Qualifications of the Program Director.

Other Considerations

In addition, the following funding factors may be applied in determining funding of approved applications.

A funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications.

A funding priority is defined as the favorable adjustment of aggregate review scores of individual approved applications when applications meet specified criteria.

Special consideration is defined as the enhancement of priority scores by merit reviewers based on the extent to which applications address special areas of concern.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Preference

In making awards of grants under this section, preference will be given to any qualified applicant that—(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group.

Statutory Special Consideration

Special consideration will be given to applicants for nurse practitioner and nurse midwife programs which conform to guidelines established by the Secretary under section 822(b)(2) of the PHS Act. A copy of these guidelines will be included with the application materials for this program.

Proposed Funding Priority

A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating students from those minority or low-income populations identified as at-risk of poor health outcomes. This priority is consistent with a HRSA strategy to increase the number of health professionals from minority and other at risk populations, to assure equal access to health professions education for all population groups, and ultimately, to provide a greater volume of health care in underserved areas.

Additional Information

Interested persons are invited to comment on the proposed review criteria and funding priority. The comment period is 30 days. All comments received on or before May 12, 1993 will be considered before the final review criteria and funding priority are established. Written comments should be addressed to: Marla E. Salmon, ScD, RN, FAAN, Director, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Nursing, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Grants Management Officer (A11), Professional Nurse Traineeships Program, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915, FAX: (301) 443–6343. Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Anastasia Buchanan, Chief, Nursing Practice Resources Section, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5763, FAX: (301) 443–8586.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915–0060.

The deadline date for receipt of applications is May 14, 1993. Applications will be considered to be "on time" if they are either:

(1) *Received on or before* the established deadline date, or

(2) *Sent on or before* the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant.

This program, Grants for Professional Nurse Traineeships, is listed at 93.358 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: March 3, 1993.

Robert G. Harmon,

Administrator.

[FR Doc. 93–8410 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to Ms. Carol Lavrich, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, Box OTT, Bethesda, Maryland 20892 (telephone 301/496–7735; fax 301/402–0220). A signed Confidentiality Agreement will be required to receive copies of the patent applications. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

06/054,926—Cobalt-Catalyzed One-Step Synthesis of Annulated Pyridimes (U.S. Patent 4,328,343)

06/145,350—Irreversible Anti-Clucocorticoids (U.S. Patent 4,296,206)

06/175,594—Method for the Use of Orally Administered Cis-Retinoic

Acid in the Treatment of Acne (U.S. Patent 4,322,438)
06/290,223—Process for Treating Proliferative Skin Diseases Using Certain 6,8-Substituted Ribofuranosylpurine-3,5-Cyclic Phosphates (U.S. Patent 4,369,181)
06/389,118—Polymer Bound Dyes Prepared by Diazo Coupling Reactions with Poly(Organophosphazenes) (U.S. Patent 4,412,066)
07/281,129—Use of Minoxidil for Wound Healing (U.S. Patent 4,912,111)
07/316,372—Calcium-Metaphosphate Filled Compositions
07/318,172—Calmodulin Binding Peptide Derivatives of Non-Erythroid Alpha Spectrin
07/367,506—Peptides and Analogues Thereof Having Antithrombotic Activity
07/423,279—Antihypertensive Compositions and Use Thereof
07/506,613—Method of Treating Diseases Associated with Elevated Levels of Interleukin 1 (U.S. Patent 5,162,361)
07/570,442—Method of Making Live Autogenous Skeletal Replacement Parts
07/686,264—Human Derived Monocyte Attracting Purified Peptide Products Useful in a Method of Treating Infection and Neoplasms in a Human Body
07/711,275—Process for Producing a Human Neutrophil Chemotactic Factor Peptide and a Recombinant Expression Vector for the Said Polypeptide
07/757,989—Plaque Inhibiting Oligosaccharide
07/764,908—Oxygen Substituted Derivatives of Nucleophile-Nitric Oxide Adducts as Agents for the Treatment of Cardiovascular Disorders
07/781,808—Carboline Derivatives Useful in Treating L-Tryptophan Eosinophilia Myalgia Syndrome
07/789,728—Characterization of Estrogen Responsive Mouse Lactoferrin Promoter
07/798,918—Nucleotide and Amino Acid Sequence of Pemphigue Vulgaris Antigen and Methods of Use
07/799,830—Method to Foster Myocardial Blood Vessel Growth and Improve Blood Flow to the Heart
07/801,167—Myocardinal cGMP-Inhibited cAMP Phosphodiesterase
07/801,812—Herparin- and Sulfatide-Binding Peptides From the Type I Repeats of Human Thrombospondin
07/815,882—Novel Monoclonal Antibody Against Human Platelets
07/821,056—Azido-Substituted Aromatic Amino Acids
07/845,042—Epibatidine, A Novel Chloropyridyl Azabicycloheptane with Potent Analgesic Activity
07/855,471—Method of Preparing an Active Human Neutrophil Chemotactic Factor Polypeptide
07/858,885—Mixed Ligand Metal Complexes of Nitric Oxide Nucleophile Adducts Useful as Cardiovascular Agents
07/862,622—In Vivo Angiogenesis Assay
07/879,619—Organ of Corti cDNA Library and Products Therefrom
07/906,479—Complexes of Nitric Oxide with Polyamines
07/906,945—Anorectic Use of Compounds
07/923,337—Producing Increased Numbers of Hematopoietic Cells by Administering Inhibitors of Dipeptidyl Peptidase IV
07/929,204—A PCR Control Template for the Quantitation of Laminin mRNA
07/935,565—Polymer-Bound Nitric Oxide/Nucleophile Adduct Compositions, Pharmaceutical Compositions Incorporating Same and Methods of Treating Biological Disorders Using Same
07/950,637—Oxygen Substituted Derivatives of Nucleophile-Nitric Oxide Adducts as Nitric Oxide Donor Prodrugs

Dated: March 31, 1993.

Reid G. Adler,

Director, Office of Technology Transfer.

[FR Doc. 93–8418 Filed 4–9–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; National Digestive Diseases Advisory Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Digestive Diseases Advisory Board on May 24, 1993. The meeting will begin at approximately 8:30 a.m. and adjourn at approximately 4:30 p.m. The focus of this meeting will be Inflammatory Bowel Disease and patient education standards for persons with Enterostomies. The meeting, which will be open to the public, will be held at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the hotel lobby.

For any further information, and for individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045. Please note, if you are requesting special assistance, you must do so two weeks prior to the meeting date. In addition, his office will provide a membership roster of the Board and an agenda and summaries of the actual meetings.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nurtition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 2, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–8414 Filed 4–9–93; 8:45 am]

BILLING CODE 4140–01–M

National Institute on Deafness and Other Communication Disorders; Meeting of the Training Subcommittee of the National Deafness and Other Communication Disorders Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Training Subcommittee of the National Deafness and Other Communication Disorders Advisory Board on May 14, 1993. The meeting will take place from 8:30 a.m. to 10 a.m. in Conference Room 7, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, and will be conducted as a telephone conference with the use of a speaker phone.

The meeting, which will be open to the public, is being held to review the research training efforts and accomplishments of the scientific fields related to the mission of the National Institute on Deafness and Other Communication Disorders and to identify new approaches and opportunities in research training. Attendance by the public will be limited to the space available.

Summaries of the Subcommittee's meeting and a roster of members may be obtained from Ms. Mirene Boerner, Acting Executive Director, National Deafness and Other Communication Disorders Advisory Board, Building 31, room 3C08, National Institutes of Health, Bethesda, Maryland 20892, (301) 402–1129, upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: April 2, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–8416 Filed 4–9–93; 8:45 am]

BILLING CODE 4140–01–M

National Institutes of Diabetes and Digestive and Kidney Diseases; Meeting; The National Kidney and Urologic Diseases Advisory Board

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the National Kidney and Urologic Diseases Advisory Board on May 3–5, 1993. On Monday, May 3, the meeting will begin at approximately 8 a.m., at which time the Board will discuss its future activities, and adjourn by 5 p.m. On Tuesday, May 4 and Wednesday, May 5 the Board will co-sponsor a workshop on Ischemic Renal Disease. The workshop will begin at 8 a.m. on Tuesday and adjourn by 2:30 p.m. on Wednesday. The Board will meet at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland. The meeting will be open to the public, and limited to space available.

For any further information, and for individuals who plan to attend and need special assistance such as sign language interpretation or other reasonable accommodations, please contact Dr. Ralph Bain, Executive Director, National Kidney and Urologic Diseases Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496–6045, at least two weeks prior to the meeting. In addition, upon request, Dr. Bain's office will provide an agenda and roster of the members.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 2, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–8415 Filed 4–9–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Health Resources and Services Administration; Statement of Organizations, Functions, and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 39409–24, August 31, 1982, as amended most recently in pertinent part at 57 FR 53334, November 9, 1992) is amended to establish the Office of Drug Pricing Program in the Bureau of Primary Health Care, within the Health Resources and Services Administration (HRSA).

Under HB–10, Organization and Functions, amend the *Bureau of Primary Health Care (HBC),* by establishing the *Office of Drug Pricing Program (HBC1A)* with the functional statement after the functional statement for the Office of External Affairs (HBC19) as follows:

Office of Drug Pricing Program (HBC1A)

(1) Responsible for coordinating Public Health Service's nationwide Drug Pricing Program; (2) develops and implements Drug Pricing Program requirements; (3) establishes and provides liaison in program matters with the Bureau, Medicaid Bureau, Health Care Financing Administration, Indian Health Service, Veterans Administration, Department of Defense, and other Federal agencies, as well as state medicaid programs, entitled entities, the pharmaceutical industry, and trade organizations on the drug pricing programs; (4) develops, manages, and maintains the PHS Pharmaceutical Pricing Agreement with pharmaceutical manufacturers and distributors who participate in the Medicaid program; (5) establishes and implements policies and provides technical assistance for the development of systems to prevent drug diversion and double discounting of Medicaid rebates which includes audits of both industry and entitled entities; (6) researches and develops feasibility and desirability studies that analyze the impact of inclusion of future entities into the drug pricing program; (7) develops guidance and direction in the management and implementation of the program with entitled entities, regional offices, other Federal programs, states, industry, and private organizations; (8) establishes and maintains data bank on the certification and recertification of specific entities with state medicaid programs; (9) coordinates and prepares the Secretary's quarterly and annual reports to Congress on the Drug Pricing Program; (10) establishes and maintains tracking systems to authenticate eligibility of entities and disproportionate hospitals to participate in the PHS Drug Pricing Program; (11) reviews and/or prepares correspondence for signature by the Director, the Administrator, the Assistant Secretary for Health, or the Secretary which includes, but is not limited to advisory opinions, comments, reports, policy, and administrative action; (12) coordinates with the Office of Data Management in the development of program data needs, formats, and reporting requirements including collection, collation, analysis and dissemination of data.

The establishment of the Office is effective upon the date of signature.

Dated: March 29, 1993.

Robert G. Harmon,

Administrator, Health Resources and Services Administration.

[FR Doc. 93–8409 Filed 4–9–93; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N–93–3610; FR–3369–N–01]

Opportunity to Claim Section 801 Retroactive Payments

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of opportunity to claim payments.

SUMMARY: This notice advises eligible owners of certain section 8 projects that the Department is accepting claims for retroactive payments under section 801(a) of the Department of Housing and Urban Development Reform Act of 1989, and provides instructions for claiming payments. This notice applies only to those projects covered by the final rule implementing section 801(a) published on May 1, 1991 (56 FR 20084) as 24 CFR part 888, subpart C, which are project-based Section 8 Housing Assistance Payments Contracts under New Construction (24 CFR part 880); Substantial Rehabilitation (part 881); State Finance Agencies (part 883); and Section 515 Farmers Home Administration (part 884). It also applies to those projects under Section 202 Elderly or Handicapped (part 885) and Special Allocations (part 886, subparts A and C) whose Contract rents are adjusted by use of the Annual Adjustment Factors (AAFs), as described in subpart B of part 888.

EFFECTIVE DATE: May 12, 1993.

FOR FURTHER INFORMATION CONTACT: James Tahash, Department of Housing and Urban Development, room 6182,

451 Seventh Street SW., Washington, DC 20410; (202) 708–3944; TDD number for the hearing- and speech-impaired (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements under this notice and 24 CFR part 888, subpart C, have been approved under the Paperwork Reduction Act by the Office of Management and Budget under control number 2502–0042.

I. Background

On May 1, 1991 (56 FR 20084), the Department published a final rule implementing section 801 of the HUD Reform Act. The rule, Annual Rent Adjustments for Section 8 Assisted Housing; Retroactive Housing Assistance Payments (24 CFR part 888, subpart C), provides for the recalculation, upon the request of an eligible owner, of section 8 rent adjustments from 1980 to May 31, 1991 (the effective date of the regulation). Based on this recalculation, owners may be eligible for retroactive payments and/or a one-time contract rent determination. This notice advises eligible owners of the procedure for claiming the payments.

II. Applicability

This notice applies to owners of projects with Section 8 Housing Assistance Payments Contracts who requested and were eligible for payments under Notice H91–61. (Notice H91–61 applied to contracts under the following regulations in title 24 of the Code of Federal Regulations: New Construction (part 880); Substantial Rehabilitation (part 881); State Finance Agencies (part 883); Section 515 Farmers Home Administration (part 884), Section 202 Elderly or Handicapped (part 885); and Special Allocations (part 886, subparts A and C). Notice H91–61 did not apply to contracts under Moderate Rehabilitation (part 882, subparts D, E, and H) nor to contracts with rents adjusted by the budgeted rent increase method.

At this time, the Department has approximately $206 million with which to make the payments. Requests for payments will be processed according to the following schedule:

1. Owners of contracts that are not subject to the revised section 8 regulations limiting dividends (generally contracts with pre-1979/80 anniversary dates) may begin requesting payments on the effective date of this notice. Vouchers must be submitted to HUD by September 9, 1993.

2. Owners of contracts that are subject to the revised Section 8 regulations limiting dividends (generally contracts with post-1979/80 anniversary dates) may begin requesting payments after July 12, 1993. Vouchers must be submitted to HUD by September 9, 1993. Payments will be processed on a first-come first-served basis. In the event sufficient funds do not exist to make all the payments, HUD will notify remaining owners of the situation. HUD will make any remaining payments when additional funds are appropriated for this purpose. Owners in this second group should remember that, because their contracts limit the amount of distributions they may be paid, some or all of the retroactive payment may be deposited into the Residual Receipts account where it will be subject to applicable laws regarding taxable income. (See "Distributions" below.)

III. Claiming Retroactive Payments

Instructions

During the Section 801 processing under Notice HUD 91–61, owners were notified by the Field Office or Contract Administrator of the results of the calculations. The notification included the results of both the retroactive payments calculation and the one-time contract rent determination. Current owners may now claim the amount specified as the retroactive payment. The deadline for claiming these payments is September 9, 1993 for contracts not subject to the revised Section 8 regulations, and September 9, 1993 for contracts subject to the revised section 8 regulations.

HUD will process the vouchers through the Line of Credit Control System (LOCCS). This enables the payments to be made via direct deposit into the project account for each eligible contract administered by these organizations.

To claim the retroactive payments, current owners must submit:

1. A section 8 voucher (Form HUD–52670) which is clearly marked at Line 1 "SECTION 801 RETROACTIVE PAYMENT—RVA" in the specified amount. The voucher must include only the section 801 retroactive payment. Regular section 8 payments must not be shown on the same voucher;

2. A certification that the owner is entitled to the full amount of the retroactive payment OR documentation of an agreement between the current owner and the former owner of the percentage to which the current owner and former owner are each entitled. If the owner is unable to submit either of these items, the Field Office or Contract Administrator must refer the case to Headquarters for review and approval;

3. For current owners of projects with contracts administered by Field Offices, a completed Direct Deposit Sign Up Form (SF–1199), including the Taxpayer Identification Number (TIN) and the project and owner name; with Item 1.F marked "other RVA"; and Section 3 completed by the financial institution and returned to the owner for submission with the payment voucher The submission of a Direct Deposit Form will facilitate the direct deposit of the funds into accounts for the projects administered by Field Offices. For more detailed instructions on completing the Direct Deposit Form, owners should contact their local HUD Field Office.

Owners must submit these items to the Field Office or Contract Administrator for review and approval (Note: Do not have the financial institution mail the SF–1199.) If the voucher reflects the correct payment amount (and the SF–1199 is properly completed where required), the Field Office or Contract Administrator will submit the voucher (and SF–1199) to the Regional Accounting Division (RAD) for payment.

Reserve for Replacement

Projects required by HUD regulations to maintain a reserve for replacement account and to adjust the annual payment to the account each year by the amount of the annual rent adjustment must deposit into the account the proportionate share of any retroactive payment received, in accordance with HUD regulations and the HAP Contract.

Generally, the HAP Contract and Regulatory Agreement specify that a certain portion of the cost of total structures, adjusted each year by the annual adjustment factor, must be placed annually into the Reserve for Replacement Account. The amount which must be deposited each year is based on the percentage of initial rent potential that equals the specified portion of the cost of total structures. If this percentage is 3 percent, then each year 3 percent of the total rent potential is deposited into the Reserve for Replacement Account. In such a case, 3 percent of the total retroactive payment amount would be deposited into the Reserve for Replacement Account.

In many cases, however, the HAP Contract and Regulatory Agreement do not require increases in the size of the deposits to the Reserve for Replacement Account, or HUD has agreed to suspend the requirement for deposits to the Reserve for Replacement Account. In these cases, the owner is not required to deposit a portion of the retroactive payment into the Reserve for Replacement Account, except that if

HUD agreed to suspend the requirement for deposits to the Reserve for Replacement Account because of the financial situation of the project, HUD may require the deposits to be resumed and an appropriate amount of the retroactive payment, including an additional sum to make up for past missed deposits, to be deposited into the account.

Distributions

The full amount of the retroactive payment must be deposited into the project account, and the Reserve for Replacement Account as applicable, and become a part of normal project funds. Dividends may only be paid to current owners as part of the normal distribution process. All requirements regarding the payment of distributions apply.

These requirements include: that the project was in a surplus cash position as of the end of the fiscal period (semi-annual or annual as applicable) preceding the date the distribution is paid (e.g., the fiscal period ending 12/31/92 to take a distribution on 1/1/93); that distributions not exceed caps which apply to Limited Dividend projects (unless distributions have been accrued); that the right to distributions has not been waived as a condition of financial assistance; that the project be current under the mortgage; that requirements regarding the physical condition of properties be fulfilled (see below); and that all other requirements be followed.

Former owners may not be paid directly from the project account. Payments to former owners must be made by the current owner from distribution proceeds. In other words, if the retroactive payment amount to a HAP Contract not subject to revised section 8 regulations is $50,000, documentation between the former owner and the current owner shows that each is entitled to 50 percent of the payment, the owner was not required to make a deposit to the Reserve for Replacement Account, and there was surplus cash in the amount of $60,000 available at the end of the preceding fiscal period: The current owner may be paid a distribution of $60,000 and must pay the former owner 50 percent of $50,000. Thus, the current owner is left with distribution proceeds of $35,000. The current owner, not the Department, is responsible for paying former owners.

Physical Condition

These retroactive payments are subject, as are all section 8 payments, to requirements regarding the physical condition of the property. Deficiencies, if any, included on the current physical inspection report completed by the mortgagee, or by HUD or the Contract Administrator if a current mortgagee inspection is not present, must be addressed. All deficiencies, whether marked for immediate repair or repair within one year, must be addressed either through repair or through submitting a plan for repair. Current instructions regarding acceptable corrections and plans for corrections will be followed.

For insured properties, unresolved deficiencies affect the calculation of surplus cash and will affect the amount, if any, of surplus cash available for distribution.

Payments to Third Parties (Former Owners, Management Agents, Consultants)

As explained earlier, current owners are responsible for making payments to former owners in accordance with an agreement between the current owner and the former owner. These payments are not an approvable project expense, but most come from distributions paid to the current owner. The amount of the distribution may not exceed any applicable caps in the case of limited dividend projects, even if a former owner is entitled to some portion of the retroactive payment.

Management fees charged as a percentage of these payments are an approvable project expense if called for by the management contract.

In some cases, third party contractors have requested that a certain percentage of the payments be assigned to them in return for services rendered in requesting the payments. This procedure is not permissible, nor is payment for such services an approvable project expense. Project funds, including Section 801 Retroactive Payments, may not be used to reimburse third party contractors for such services. Any payment owed to such a contractor is the responsibility of the owner and not the Department.

Litigation

Several lawsuits, especially in the 9th Circuit Court of Appeals, have challenged the constitutionality of section 801 of the HUD Reform Act, which authorizes these payments. Where an owner is a plaintiff in such a lawsuit filed before May 31, 1991, special provisions govern. These owners fall into three categories: (1) Plaintiffs who have requested section 801 payments and have not collected any court-ordered payments in the case; (2) plaintiffs who have requested Section 801 payments and have collected court-ordered payments in the case; and (3) plaintiffs who have not yet requested section 801 payments. Only owners in the first of these three categories may bill HUD for payments at this time. Eligible owners in the second and third categories will be able to receive payments only after the litigation is finally resolved. If litigation is finally settled in favor or the Department, retroactive payment amounts will be prorated to reflect payments already made and rent levels will be adjusted to reflect the Section 801 Contract Rent Determination results.

Dated: April 2, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–8436 Filed 4–9–93; 8:45 am]

BILLING CODE 4210–27–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–93–3609; FR–3492–N–01]

Information on Exception to New 6-Year Limitation on Eligibility for Distributive Shares

AGENCY: Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice is being published to inform any former FHA mortgagors whose loans have had their mortgage insurance terminated for a period of more than 6 years, and for whom an obligation for payment of a distributive share has been established, that, not withstanding the recent 6-year statute of limitations on payment of distributive shares under the Mutual Mortgage Insurance Fund, such mortgagors are eligible for payment of a distributive share if the mortgagor applies for payment before October 28, 1993.

SUPPLEMENTARY INFORMATION: Section 508 of the Housing and Community Development Act of 1992 establishes a statute of limitations on the payment, by HUD, of distributive shares in connection with the basic FHA home mortgage insurance program. It amends section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) to prohibit the Secretary of HUD from distributing any Mutual Mortgage Insurance Fund shares to an eligible mortgagor beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless

the mortgagor has applied in accordance with the procedures prescribed by the Secretary for payment of the share within the 6-year period. Any amounts no longer eligible for distribution will be transferred from the Participating Reserve Account to the General Surplus Account. There is one exception to this 6-year limitation on the distribution of shares. The Secretary will distribute a share to any otherwise-eligible mortgagor if the mortgagor applies for payment of the share before October 28, 1993, which is within one year after the date of enactment of the Housing and Community Development Act of 1992.

Historically, the Department has made a concerted effort to locate and notify mortgagors eligible for payment of a distributive share. In most cases, HUD has contacted the payee by simply obtaining from the mortgagee the current address of the eligible mortgagor. In cases where a mortgagor is not successfully contacted initially, the Department makes a further effort (including, but not limited to, utilization of credit bureaus and other Federal agencies, contractor services, 800 telephone numbers, and service support centers) to locate persons entitled to distributive share payments. This Notice is being published as an additional effort to provide information on eligibility, and on the new statutory conditions on eligibility, to FHA mortgagors.

Dated: April 6, 1993.

James E. Schoenberger,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 93–8437 Filed 4–9–93; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

National Park Service

Civil War Sites Advisory Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting of the Civil War Sites Advisory Commission.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. appendix (1988), that a meeting of the Civil War Sites Advisory Commission will be held on April 22 or 23, 1993, in the vicinity of Elkins or Clarksburg, West Virginia. The Commission is providing less than 15 days prior notice of the meeting because there was insufficient time between the Commission's decision to hold the meeting and the **Federal Register** due date. The specific time, date, and place of the meeting will be determined by April 9, 1993.

This meeting will constitute the fifteenth meeting of the Commission. The primary focus of the meeting will be on the Commission's report. The Commission will welcome input from the public on the subject of Civil War site evaluation and preservation, especially as it relates to Civil War sites in West Virginia.

Space and facilities to accommodate members of the public may be limited and persons will be accommodated on a first-come, first-served basis. Anyone may file a written statement with the Commission concerning matters to be discussed.

Persons wishing further or more specific information concerning the meeting or who wish to submit written statements may contact Ms. Jan Townsend or Ms. Kathleen Madigan, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013–7127 (telephone 202–343–3936). Draft summary minutes of the meeting will be available for public inspection about 8 weeks after the meeting, in Suite 250, 800 N. Capitol St., NW., Washington, DC 20002.

Dated: April 6, 1993.

Carol Shull,

Acting Executive Director and Chief, Interagency Resources Division.

[FR Doc. 93–8438 Filed 3–9–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–167 (Sub-No. 1112X)]

Consolidated Rail Corp.—Abandonment Exemption—In Montgomery County, PA

Consolidated Rail Corporation (Conrail) has filed a notice of exemption under 49 CFR part 1152, subpart F—Exempt Abandonments to abandon its 2.5-mile line of railroad in Montgomery County, PA. The track in question extends from its connection to SEPTA's Norristown Line (approximately milepost 0.0) to a point approximately 125 feet east of the east side of Gallagher Road in Plymouth Meeting, PA (approximately milepost 2.5).

Conrail has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years; (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, 1105.8, 1105.11, 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental 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 May 12, 1993, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29[3] must be filed by April 22, 1993. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 3, 1993, with: Office of 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: Robert S. Natalini, Consolidated Rail Corporation, Two Commerce Square, 2001 Market Street, P.O. Box 41416, Philadelphia, PA 19101–1416.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

Applicant has filed an environmental and historical report which addresses the abandonment's effects, if any, on the environmental and historic resources.

The Section of Energy and Environment (SEE) will issue an environmental assessment (EA) by April 16, 1993. Interested persons may obtain a copy of the EA by writing to SEE

[1] 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 Environmental 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.

[2] See Exempt of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement as long as it retains jurisdiction to do so.

(room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine 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: April 5, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–8477 Filed 4–9–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—Portland Cement Association

Notice is hereby given that, on August 17, 1992 and February 22, 1993, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the Portland Cement Association ("PCA") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the Illinois Cement Company and the Essex Cement Company have resigned; the Texas-Lehigh Cement Company, Buda, TX; the Roanoke Cement Company, Cloverdale, VA; and the Colorado/Wyoming Shippers Association, Inc., Denver, CO have joined the PCA. Ash Grove Cement West, Inc. has changed its name to Ash Grove Cement Company, Overland Park, KS; and St. Marys Peerless Cement Company and St. Marys Wisconsin Cement Inc. are replaced by St. Marys Cement Company, Detroit, MI.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PCA intends to file additional written notification disclosing all changes in membership.

On January 7, 1985, PCA filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on February 5, 1985, (50 FR 5015).

The last notification was filed with the Department on July 6, 1992. A notice was published in the Federal Register pursuant to section 6(b) of the Act on August 21, 1992 (57 FR 38067).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–8401 Filed 4–9–93; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: Office of Records Administration, National Archives and Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Request for copies must be received in writing on or before May 27, 1993. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, Animal and Plant Health Inspection Service (N1–463–92–1). Routine records relating to animal damage control and environmental quality programs.

2. Department of the Army, Sensitive Records and Information Agency (N1–AU–92–1). Routine facilitative and administrative records.

3. Department of the Army (N1–AU–92–5). Routine administrative files relating to information security.

4. Department of Commerce, International Trade Administration (N1–151–92–6). Electronic records of sales transactions from foreign countries, companies, and products.

5. Department of Health and Human Service, Administration for Children and Families (N1–363–93–1). Grant case files and other records of predecessor agencies.

6. Department of Health and Human Service, Substance Abuse and Mental Health Services Administration (N1–511–92–1). Case files relating to the treatment of Mariel Cuban refugees.

7. Department of Transportation, Federal Highway Administration (N1–

406–90–3). Routine textual records associated with the Fiscal Management Information System.

8. Federal Emergency Management Agency (N1–311–92–4). Schedules of daily activities of high-level officials.

9. National Commission on Children (N1–220–93–3). Routine subject files and interspersed facilitative material.

10. Office of Secretary of Defense (N1–330–93–2). Overseas travel clearance records.

11. Railroad Retirement Board (N1–184–93–6). Duplicate copies of Bureau/Office Operations Plans.

12. National Archives and Records Administration (N2–266–93–2). Registered Offering Statistics Data File, 1971–1988, accession from the Securities and Exchange Commission.

13. National Archives and Records Administration (N2–266–93–1). Institutional Investor Study, 1969–1971, accessioned from the Securities and Exchange Commission.

14. Tennessee Valley Authority, Finance and Administration (N1–142–92–8). Plant depreciation records.

15. Tennessee Valley Authority, Resource Group (N1–142–92–14). Employee suggestions for new research or improvements in chemical development processes.

Dated: March 31, 1993.

Trudy Peterson,

Acting Archivist of the United States.

[FR Doc. 93–8406 Filed 4–9–93; 8:45 am]

BILLING CODE 7515–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

Portland General Electric Co., Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to the requirement to perform periodic containment leak rate testing as required by 10 CFR 50.54(o) and 10 CFR part 50, appendix J. This exemption would be granted to the Portland General Electric Company (PGE or the licensee) for the Trojan Nuclear Plant (Trojan) located in Columbia County, Oregon, on the Columbia River.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from the requirements of 10 CFR 50.54(o) and 10 CFR part 50, appendix J to perform periodic containment leak rate testing. The licensee requested this exemption in their letter of February 16, 1993, and is being considered by the NRC.

The Need for the Proposed Action

The licensee letter of January 27, 1993, stated that the Trojan Nuclear Plant had permanently ceased power operation. By letter dated February 2, 1993, the licensee informed the NRC staff that all reactor fuel had been permanently removed from the reactor vessel at Trojan and placed in the spent fuel pool. On March 24, 1993, the NRC staff issued an order confirming the commitment by the licensee, as stated in a letter dated February 17, 1993, not to move fuel back into the containment building at Trojan without prior NRC approval. Removal of the fuel from the containment has eliminated the significant source of radioactivity from the containment and has eliminated the primary source of energy for creating a differential pressure to cause leakage across the containment barrier. Therefore, the requirements of 10 CFR 50.54(o) and 10 CFR part 50, appendix J are no longer needed since there could not be any possible release of fission products into the environment from reactor pressure system boundary releases.

Environmental Impacts of the Proposed Action

The proposed exemption does not have any effect on accident risk and the possibility of environmental impact is extremely remote.

The proposed exemption does not increase the probability or consequences of any accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluent and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the exemption. This would not reduce environmental impacts of plant operation and would not enhance the protection of the environment nor public health and safety.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement for the Trojan Nuclear Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based on the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated February 16, 1993, which is available for public inspection at the Commission Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the local public document room for the Trojan Nuclear Plant at the Branford Price Millar Library, Portland State University, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 6th day of April 1993.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Operating Reactor Support, Office of Nuclear Reactor Regulation.

[FR Doc. 93–8457 Filed 4–9–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–245]

Exemption; Northeast Nuclear Energy Co. (Millstone Unit 1)

I

The Northeast Nuclear Energy Company (NNECO, the licensee) is the holder of Facility Operating License No. DPR–21 which authorizes operation of Millstone Nuclear Power Station, Unit 1. The license provides, among other things, that Millstone Unit 1 is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The plant is a boiling water reactor located at the licensee's site in New London County, Connecticut.

II

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that primary reactor containments shall meet the containment leakage test requirements set forth in 10 CFR part 50, appendix J. More specifically the following sections require that:

10 CFR Part 50, Appendix J, Section III.D.2(a)

Type B tests, except tests for air locks, shall be performed during reactor shutdown for refueling, or other convenient intervals, but in no case at intervals greater than 2 years.

10 CFR Part 50, Appendix J, Section III.D.3

Type C tests shall be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years.

By letter dated January 18, 1993, as supplemented by letter dated March 22, 1993, NNECO requested schedular exemptions from the above requirements. NNECO commenced the most recent local leak rate testing (LLRT) program at Millstone Unit 1 on April 7, 1991, during the cycle 13 refueling outage. NNECO experienced an usually long refueling outage followed by a shutdown approximately 1 month after startup for licensed operator requalification. This second outage was, in turn, extended due to erosion/corrosion inspections. NNECO subsequently had another unplanned shutdown for service water system inspections and repair. Due to this series of circumstances, NNECO has postponed the refueling outage for cycle 14 from February 1993, to February 1994. The requirement to perform Type B and C LLRTs within a 2-year interval would require an unscheduled plant shutdown, given the current Millstone Unit 1 refueling outage schedule. The total schedular delay is expected to be approximately 10 months.

III

By letter dated January 18, 1993, as supplemented by letter dated March 22, 1993, NNECO requested an exemption to the requirements of Section III.D.2(a) and III.D.3 which require that Type B and C testing be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. In their submittals and in a phone conference between the staff and NNECO on March 16, 1993, NNECO stated that they were unable to perform any of the LLRTs during the periods that the plant was shutdown due to the evolving nature of the unplanned shutdowns. The outages were unplanned and were expected to be of short duration when they began. The outages evolved into much longer than anticipated durations as the scope of the work to be done became more apparent to NNECO management. The work performed during these outages was extensive causing NNECO to involve the majority of their resources. This left them with insufficient resources to plan and perform the LLRT program at the same time, which among other things, would require many test procedures to be modified due to the fuel being in the reactor vessel.

NNECO performed a detailed analysis of the past leak rate history of the 98 penetrations in question. NNECO reviewed the results of their last six tests and found that of the 98 penetrations tested each time, a total of 18 different penetrations had failed. The review showed that the majority of the penetrations were historically "good performers." NNECO has worked to improve the leak tightness of their containment penetrations. The success of these efforts is demonstrated by the fact that only two penetrations during the last six tests have had recurring failures. One (penetration X–14) was successfully fixed by NNECO in 1989, as is demonstrated by its passing the 1991 "as found" LLRT. The other is penetration X–25/202D on which NNECO has committed to performing a mid-cycle test prior to the end of the 2-year test interval. NNECO has implemented a corrective action plan to address the problems with this penetration. The mid-cycle test of penetration X–25/202D will demonstrate whether or not this corrective action plan has been successful. NNECO also has further corrective actions scheduled for this penetration during the next refueling outage.

NNECO has committed to two compensatory measures in the interim until the refueling outage in order to demonstrate a good faith effort to comply with the regulations. First, NNECO has identified 17 penetrations that they can reasonably test at power without placing the plant in inadvisable configurations or risking personnel safety. These 17 penetrations include 16 cable penetrations and the control rod drive hatch. These tests will be completed prior to the expiration of the 2-year test interval for each penetration. In addition, NNECO will also test penetration X–25/202D which has had recurring failures. This penetration will be tested in late April 1993. NNECO's second compensatory measure is to begin performing the LLRT program should they experience an unplanned outage of sufficient duration to begin testing penetrations. NNECO has determined that an outage of 2 weeks or longer will be sufficient to begin testing. The number of penetrations that can be tested during the unplanned outage will depend on the length of the outage.

Based on the above evaluation, the staff finds there is reasonable assurance that the containment leakage-limiting function will be maintained and that a forced outage to perform Type B and C tests is not necessary. Therefore, the staff finds the requested temporary exemption, to allow the Type B and C test intervals to be extended to the refueling outage which will begin no later than February 28, 1994, to be acceptable.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, the Commission finds that the special circumstances required by 10 CFR 50.12(a)(2)(ii) and (v) are present. Application of the regulation in these particular circumstances is not necessary to achieve the underlying purpose of the rule in that, as discussed in Section III, the containment leakage-limiting function will be maintained and the exemption provides only temporary relief from the applicable regulation with which the licensee has made good faith efforts to comply by implementing an alternative program.

An exemption is hereby granted from the requirements of sections III.D.2(a) and III.D.3 of appendix J to 10 CFR part 50, which require that Type B and C tests be performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years, until the next refueling outage which is scheduled to begin no later than February 28, 1994.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the quality of the human environment (58 FR 17627).

This Exemption is effective upon issuance.

Dated at Rockville, Maryland this 5th day of April 1993.

For the Nuclear Regulatory Commission.

Steven A. Varga, Director,

Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–8456 Filed 4–9–93; 8:45 am]

BILLING CODE 7590–01–M

Exemption; Omaha Public Power District (Fort Calhoun Station, Unit 1)

[Docket No. 50-285]

I

The Omaha Public Power District (OPPD/the licensee) is the holder of Facility Operating License No. DPR-40, which authorizes operation of the Fort Calhoun Station, Unit 1 (the facility), at steady state reactor core power levels not in excess of 1500 megawatts thermal. This facility is a pressurized water reactor located in Washington County, Nebraska. The license provides, among other things, that Fort Calhoun Station, Unit 1, is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

By letter dated January 26, 1983, the licensee (Omaha Public Power District) of Fort Calhoun Station, Unit No. 1, requested an exemption from the requirements of Appendix J for Type C leakage tests on the containment isolation valve (check valve CH-198) associated with the charging pump discharge header (penetration M-3). Subsequently, by letter dated November 27, 1985, the licensee proposed technical specification changes to reflect the requested exemption.

The justification for not performing Type C tests on this valve was that, following a loss-of-coolant accident (LOCA), all the charging pumps would remain operational or would be automatically started and aligned to the boric acid storage tanks, which would provide a source of supply to the pumps for approximately 80 minutes. After the tanks were empty, all these pumps would be shut down and a 14-ft water head (equivalent to approximately 6 psig) would exist on the suction side of the charging pumps for the duration of the accident. The containment pressure (as originally calculated and presented in the previous facility's Updated Safety Analysis Report) would be reduced from the calculated peak pressure of 60 psig to approximately 2 psig within 50 minutes. Thus, the fluid in the suction side of the charging pumps would provide a seal barrier against any potential leakage of the containment atmosphere through this penetration.

Based on the supporting documentation from the November 27, 1985, letter, the Commission in a Safety Evaluation (SE) dated January 10, 1986, concluded that containment isolation valve CH-198 met all requirements provided in section III.C.2.(b) of 10 CFR part 50, appendix J, for valves pressurized with fluid from a water seal system. Accordingly, the Commission concluded that the proposed technical specification was acceptable and no exemption was needed.

By letter dated February 14, 1991, the licensee notified the Commission of a revised containment pressure analysis indicating that for certain accident scenarios the post-LOCA containment pressure would remain above 6 psig for the initial 24 hours and would remain above the water head existing in the charging pump system for the duration of the accident. Therefore, penetration M-3 would be a potential leakage path. Consequently, the exclusion of penetration M-3 from the appendix J Type C test requirement was invalidated. In Licensee Event Report (LER) 91-03, dated March 6, 1991, the licensee provided the detailed interim corrective actions taken and the history of subsequent changes (e.g., containment spray nozzle blockage, containment spray pump power, containment spray pump run-out, degraded containment air cooler performance, etc.) that led to the revised containment pressure analyses.

By letter dated May 1, 1992, the licensee stated that the final corrective actions, which will require operator actions and associated procedures to isolate this potential containment leakage path, had been implemented.

II

The licensee revised the appropriate emergency operating procedures (EOPs) and abnormal operating procedures (AOPs) to ensure that penetration M-3 would be maintained with water at a pressure higher than the containment pressure for the duration of a postulated accident. The plant EOPs and AOPs now require alignment of either charging pump or high-pressure safety injection pump discharge through penetration M-3 into a cold leg following a LOCA. The implementation of these procedures with specified operator actions will assure that fluid pressure through penetration M-3 will always be above the post-LOCA containment pressure, and, therefore, will prevent any potential containment leakage through penetration M-3.

III

The Commission has reviewed the licensee's rationale for excluding the containment isolation valve (CH-198) from the Type C tests and the operator actions described in the plant EOPs and AOPs. The underlying purpose of section III.C.2(b) of 10 CFR part 50 appendix J is to ensure that valves that are sealed with fluid from a seal system shall be pressurized with that fluid to a pressure not less than 1.10 Pa. Based on its review, the Commission finds the basis for the exclusion of the containment isolation valve associated with penetration M-3 acceptable. The special circumstances required by 10 CFR 50.12(a)(2)(ii) are present since the application of the Type C testing requirements to the valve associated with penetration M-3 is not required to achieve the underlying purpose of the rule. The Commission further considers the issue of Type C testing requirements for the above cited containment isolation valve resolved.

However, the licensee should recognize that granting the exemption for the containment isolation valve (CH-198) from Type C testing requirements does not mean that the licensee can delete it as a containment isolation valve, because a water seal in a penetration is not accepted as a containment isolation barrier.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest and hereby grants an exemption from the requirements of section III of appendix J to 10 CFR part 50 to the extent discussed in section I above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (58 FR 5765).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 6th day of April 1993.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Director, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93-8455 Filed 4-9-93; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on March 2, 1993 (58 FR 8433). Individual authorities established or revoked under Schedules A and B and established under Schedule C between February 1 and February 28, 1993, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, 1993, will also be published.

Schedule A

No Schedule A authorities were established or revoked during February 1993.

Schedule B

No Schedule B authorities were established or revoked during February 1993.

Schedule C

Department of the Air Force

Special Assistant to the Assistant to the Vice President for National Security Affairs. Effective February 26, 1993.

Department of Agriculture

Confidential Assistant to the Executive Assistant to the Secretary. Effective February 10, 1993.

Confidential Assistant to the Executive Assistant to the Secretary. Effective February 11, 1993.

Staff Assistant to the Secretary (Typing). Effective February 11, 1993.

Confidential Assistant to the Deputy Director, Office of Public Affairs. Effective February 18, 1993.

Department of Justice

Assistant to the Attorney General. Effective February 18, 1993.

Public Affairs Specialist to the Deputy Director, Office of Policy and Communications. Effective February 18, 1993.

Department of Veterans Affairs

Executive Assistant to the Secretary of Veterans Affairs. Effective February 24, 1993.

General Services Administration

Special Assistant to the Associate Administrator for Public Affairs. Effective February 11, 1993.

Senior Advisor (Region I—Boston, MA) to the Regional Administrator. Effective February 19, 1993.

Government Printing Office

Congressional and Public Affairs Officer to the Public Printer. Effective February 26, 1993.

Interstate Commerce Commission

Confidential Assistant to the Commissioner. Effective February 24, 1993.

Special Assistant to the Commissioner. Effective February 24, 1993.

National Aeronautics and Space Administration

Special Assistant to the Administrator. Effective February 5, 1993.

President's Commission on White House Fellowships

Associate Director to the Director. Effective February 10, 1993.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

[FR Doc. 93–8431 Filed 4–9–93; 8:45 am]

BILLING CODE 6325–01–M

Privacy Act of 1974: Computer Matching Programs—OPM/Social Security Administration

AGENCY: Office of Personnel Management (OPM).

ACTION: Publication of notice of computer matching to comply with Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988.

SUMMARY: OPM is publishing notice of its computer matching program with the Social Security Administration (SSA) to meet the reporting and publication requirements of Public Law 100–503. The purpose of this match is for SSA to verify earnings data furnished directly to OPM by civil service annuitants.

DATES: The matching program will begin in April 1993, or 30 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. The data exchange will begin at a date mutually agreeable between OPM and SSA after April 1, 1993, unless comments are received which will result in a contrary determination. Subsequent matches will take place annually on a recurring basis until one of the parties advises the other, in writing, of its intention to reevaluate, modify and/or terminate the agreement.

ADDRESSES: Send comments to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management, PO Box 57; Washington, DC 20044; or deliver to OPM, Room 4351, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Joy Anderson, (202) 606–0299.

SUPPLEMENTARY INFORMATION: OPM and SSA intend to conduct a computer matching program, as described below. The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of tax return information to OPM. The SSA records will be used in a matching program with OPM's records on disability retirees and retirees under the Federal Employees Retirement System who receive annuity supplements. These annuitants have limitations on their earnings which they may not exceed if they are to retain their annuity benefits. OPM will use the SSA data to verify the earnings information provided directly to OPM by the annuitants.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

Report of Computer Matching Program Between the Office of Personnel Management and Social Security Administration

A. *Participating Agencies.* OPM and SSA.

B. *Purpose of the Matching Program.* Chapters 83 and 84 of title 5, United States Code (U.S.C.) require OPM to verify earnings data supplied by civil service annuitants. Section 6103(l)(11) of the Internal Revenue Code requires SSA to disclose tax return information to OPM to administer programs under chapters 83 and 84 of title 5, United States Code. The purpose of this match is for SSA to verify earnings data furnished directly to OPM by civil service annuitants.

C. *Authority for Conducting the Match Program.* Pub. L. 97–253, Chapters 83 and 84, title 5, United States Code and 26 U.S.C. 6103(l)(11)

D. *Categories of Records and Individuals Covered by the Match.* The SSA records involved in the match are earnings, self-employment and other data which constitute tax return information pursuant to 26 U.S.C. 6103. The Earnings Recording and Self-Employment Income System (last

published in the FR as 57 FR 55265, November 24, 1992) maintains records of individuals' wages or self-employment income from employment under Social Security. The OPM records consist of annuity data from its system of records entitled OPM/Central-1—Civil Service Retirement and Insurance Records (last published in the FR as 57 FR 35698, August 10, 1992).

E. *Inclusive Date of the Matching Program.* This computer matching program is subject to review by the Office of Management and Budget and the Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective on the date specified above. By agreement between OPM and SSA, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

[FR Doc. 93–8430 Filed 4–9–93; 8:45 am]

BILLING CODE 8325–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges in an Over-the-Counter Issue and To Withdraw Unlisted Trading Privileges in an Over-the-Counter Issue

April 6, 1993.

On March 31, 1993, the Midwest Stock Exchange, Inc. ("MSE") submitted an application for unlisted trading privileges ("UTP") pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") security, i.e., a security not registered under section 12(b) of the Act.

File No.	Symbol	Issuer
7–10504	OSSI	Outback Steakhouse, Common Stock $0.01 par value.

The above-referenced issue is being applied for as a replacement for the following security, which forms a portion of the Exchange's program in which OTC securities are being traded pursuant to the granting of UTP.

The MSE also applied to withdraw UTP pursuant to section 12(f)(4) of the Act for the following issue:

File No.	Symbol	Issuer
7–10505	SCAF	Surgical Care Affiliates, Common Stock $0.25 par value.

A replacement issue is being requested due to lack of trading activity.

Comments

Interested persons are invited to submit, on or before April 27, 1993, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Commentators are asked to address whether they believe the requested grant of UTP as well as the withdrawal of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension or withdrawal of UTP in an OTC security, the Commission consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such security, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–8424 Filed 4–9–93; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1786]

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Department of State.

ACTION: The Department of State has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511.

DATES: The Department requested OMB approval by April 23, 1993.

SUMMARY: The governments of the United States and Japan agreed to conduct a joint survey on the role of Japanese trading companies in trade, investment, and technology flows between the two countries in the Second Annual Report of the U.S.-Japan Working Group on the Structural Impediments Initiative (SII), published on July 30, 1992. The information gained from the questionnaire will aid the U.S. government in understanding the role Japanese general trading companies play in trade and help the U.S. private sector in its efforts to increase business activity in Japan. The following summarizes the information collection proposal submitted to OMB:

1. *Type of request*—New.
   Originating office—Bureau of East Asian and Pacific Affairs.
   Title of information collection—Questionnaire for Selected U.S. Companies for Joint U.S.-Japan Study on Japanese Trading Companies (Sogo Shosha).
   Frequency—One time.
   Respondents—Select U.S. Businesses Involved with Japanese General Trading Companies.
   Estimated number of respondents—30.
   Average number of responses per respondent—1.
   Average hours per response—3 hours.
   Total estimated burden hours—90.

44 U.S.C. 3504(h) does not apply, as no rulemaking is being conducted in connection with this information collection.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook, (202) 647–3538. Comments and questions should be directed to (OMB) Jefferson B. Hill, (202) 395–7340.

Dated: April 1, 1993.

Jerome F. Tolson, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 93–8405 Filed 4–9–93; 8:45 am]

BILLING CODE 4710–24–M

[Public Notice 1787]

Fine Arts Committee; Meeting

The Fine Arts Committee of the Department of State will meet on Friday, April 30, 1993 at 2 p.m. in the John Quincy Adams State Drawing Room. The meeting will last until approximately 3:30 p.m. and is open to the public.

The agenda for the committee meeting will include a summary of the work of the Fine Arts Office since its last meeting in October 1992 and the

announcement of gifts and loans of furnishings as well as financial contributions from January 1, 1992 to December 31, 1992.

Public access to the Department of State is strictly controlled. Members of the public wishing to take part in the meeting should telephone the Fine Arts Office by Wednesday, April 28, 1993, telephone (202) 647–1990 to make arrangements to enter the building. The public may take part in the discussion as long as time permits and at the discretion of the chairman.

Dated: April 6, 1993.

Clement E. Conger,

Chairman, Fine Arts Committee.

[FR Doc. 93–8459 Filed 4–9–93; 8:45 am]

BILLING CODE 4710–38–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended April 2, 1993

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 48722
Date Filed: March 29, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 26, 1993
Description: Joint Application of United Air Lines, Inc. and USAir, Inc., pursuant to section 401(h) of the Act and subpart Q of the Regulations, requests the transfer to United of USAir's Philadelphia-London certificate authority subject to the principal conditions.

Docket Number: 48723
Date Filed: March 29, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 26, 1993
Description: Application of Friendship Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing it to provide scheduled interstate and overseas air transportation of persons, property and mail.

Docket Number: 48728
Date Filed: March 31, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 14, 1993
Description: Application of M.W. McDonald, Inc. d/b/a/ Miami Air Charter, pursuant to section 401(d)(1) requests the issuance of a certificate of public convenience and necessity which would authorize it to engage in Charter Foreign Air Transportation of persons, property and mail between points in the United States of America and its territories and possessions, and points outside of the United States and its territories and possessions.

Docket Number: 48729
Date Filed: March 31, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 28, 1996
Description: Application of M.W. McDonald, Inc. d/b/a Miami Air Charter, pursuant to section 401(d)(3) of the Act and subpart Q of the Regulations, requests the issuance of a certificate of public convenience and necessity which should authorize it to engage in charter interstate and overseas air transportation of persons, property and mail between any point or points in the United States or its Territories or possessions, on the one hand, and any point or points the United States or its Territories or possessions, on the other hand.

Docket Number: 48730
Date Filed: April 1, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 29, 1993
Description: Application of Airmark Aviation, Inc., pursuant to section (401(d)(1)) of the Act and subpart Q of the Regulations, requests authority to engage in interstate and overseas scheduled air transportation of persons, property, and mail: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States.

Docket Number: 48731
Date Filed: April 1, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 29, 1993
Description: Application of Airmark Aviation, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations, requests authority to engage in foreign scheduled air transportation of persons, property, and mail: Between any point in any State in the United States or the District of Columbia, or any territory or possession of the United States, and any other point outside thereof.

Docket Number: 48734
Date Filed: April 2, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 10, 1993
Description: Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, also conforming to Docket 48722, applies for a certificate of public convenience and necessity to engage in foreign air transportation of persons, property, and mail between Philadelphia, Pennsylvania, and London, England (to be served via Heathrow Airport).

Docket Number: 47753
Date Filed: April 1, 1993
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: April 29, 1993
Description: Amendment #1 To The Application of Trans World Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations reflects the fact that the New York-Stansted daily B–767 service shown in the Original application will originate and terminate in Chicago, Illinois.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 93–8461 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–62–M

National Highway Traffic Safety Administration

[Docket No. 92–61; Notice 2]

Determination That Nonconforming 1970 Mercedes-Benz 250C Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of determination by NHTSA that nonconforming 1970 Mercedes-Benz 250C passenger cars are eligible for importation.

SUMMARY: This notice announces the determination by NHTSA that 1970 Mercedes-Benz 250C passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to

a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1970 Mercedes-Benz 250C), and they are capable of being readily modified to conform to the standards.

DATE: The determination is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards must be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) petitioned NHTSA to determine whether 1970 Mercedes-Benz 250C passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on January 22, 1993 (58 FR 5796) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has determined to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP #31 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby determines that a 1970 Mercedes-Benz 250C (Model ID 114.021) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1970 Mercedes-Benz 250C (Model ID 114.023) originally manufactured for importation into and sale in the United States and certified under section 114 of the National Traffic and Motor Vehicle Safety Act, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8

Issued on: April 6, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–8462 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

[Docket No. WPDA–2; Notice No. 93–2]

City of New York: Application for Waiver of Preemption Concerning Transportation of Radioactive Materials

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Extension of comment period.

SUMMARY: On February 19, 1993, RSPA announced the availability of a study on New York City's application for a waiver of statutory preemption under the Hazardous Materials Transportation Act, and requested comments on the study and the City's application (58 FR 9237). The City has requested an extension of the comment period to analyze and respond to the study, and conduct a new study to support the City's application. RSPA is extending the comment period for an additional 60 days to allow the City adequate time to evaluate the study and prepare its response.

DATES: Comments received on or before June 21, 1993, and rebuttal comments filed on or before August 20, 1993, will be considered before an administrative decision is issued by the Associate Administrator for Hazardous Materials Safety, RSPA. Rebuttal comments may discuss only those issues raised by comments during the initial comment period and may not raise new issues.

ADDRESSES: New York City's application, the study, and any comments received may be reviewed in the Dockets Unit, Research and Special Programs Administration, room 8421, Nassif Building, 400 Seventh Street SW., Washington, DC 20590–0001 (telephone 202–366–4453). Comments and rebuttal comments may be submitted to the Dockets Unit at the above address, and should include the Docket Number (WPDA–2). Three copies of each comment should be submitted. A copy of each comment and rebuttal comment must also be sent to: (a) Susan M. Kath, Esq., Assistant Corporation Counsel, City of New York, 100 Church Street, room 326H, New York, NY 10007; (b) Mindy A. Buren, Esq., EEI–UWASTE, Shaw, Pittman, Potts & Trowbridge, 2300 N Street NW., Washington, DC 20037; and (c) Cornelius F. Tuohy, Esq., Assistant Attorney General, State of Connecticut, 55 Elm Street, Hartford, CT 06106. A certification that a copy has been sent to each person must also be included with the comment. (The following format is suggested: "I hereby certify that copies of this comment have been sent to Ms. Kath, Mr. Buren, and Mr. Tuohy at the addresses specified in the **Federal Register**.")

A copy of the study, which is entitled "Support for the U.S. Department of Transportation Response in the New York City Radioactive Materials Routing Case," is available upon request from the Office of Hazardous Materials Planning and Analysis, room 8108, (202) 366–4484, 400 Seventh Street SW., Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Mary M. Crouter, Special Counsel, Office of the Chief Counsel (DCC–3), Research and Special Programs Administration, 400 Seventh Street SW., Washington, DC 20590–0001, telephone 202–366–4400.

Issued in Washington, DC, on April 6, 1993.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 93–8452 Filed 4–9–93; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

April 6, 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: New
Form Number: IRS Form 3911
Type of Review: New collection
Title: Taxpayer Statement Regarding Refund
Description: If taxpayer inquires about their non-receipt of refund (or lost or stolen refund) and refund has been issued, the infomation and taxpayer signature are needed to begin tracing action.
Respondents: Individuals or households, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations
Estimated Number of Respondents: 520,000
Estimated Burden Hours Per Respondent: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 43,160 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. 93–8425 Filed 4–9–93; 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: A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on April 14 in room 600, 301 4th Street, SW., Washington DC from 11 a.m. to 12 p.m.

The Commission will meet with Messrs. Joseph Bruns, Acting Director, Voice of America; Walt LaFleur, Chief Engineer, Voice of America; and Robert Knopes, Chief, East Asia and Pacific Division, Voice of America to discuss policies and programs relating to broadcasting consolidation and U.S. broadcasts to Asia.

FOR FURTHER INFORMATION:

Please call Gloria Kalamets, (202) 619–4468, if you are interested in attending the meeting. Space is limited and entrance to the building is controlled.

Dated: April 7, 1993.

Rose Royal,

Management Analyst, Federal Register Liaison.

[FR Doc. 93–8487 Filed 4–9–93; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 68
Monday, April 12, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 58 F.R. 17304.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:00 a.m., Tuesday, April 27, 1993.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has deleted the discussion regarding Final regulation on Contract Market Emergency Actions that was scheduled for 10:00 a.m., Tuesday, April 27, 1993.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 93–8553 Filed 4–8–93; 11:31 am]

BILLING CODE 6351–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10 a.m., Wednesday, April 14, 1993.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED: Compliance Status Report.

The staff will brief the Commission on the status of various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: April 7, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–8604 Filed 4–8–93; 1:38 pm]

BILLING CODE 6355–01–M

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, April 15, 1993.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED: Baby Walkers, Petition HP 92–2.

The Commission will consider a petition from the Consumer Federation of America, the American Academy of Pediatrics, the Washington Chapter of the American Academy of Pediatrics, the National SAFE KIDS Campaign, and Consumers Union requesting a ban of baby walkers as a mechanical hazard under the Federal Hazardous Substances Act.

For a Recorded Message Containing the Latest Agenda Information, Call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 504–0800.

Dated: April 7, 1993.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 93–8605 Filed 4–8–93; 1:38 pm]

BILLING CODE 6355–01–M

NATIONAL CREDIT UNION ADMINISTRATION

NOTICE OF MEETINGS

TIME AND DATE: 11:00 a.m., Monday, April 19, 1993.

PLACE: Filene Board Room, 7th Floor, 1776 G. Street, N.W., Washington, D.C. 20456.

STATUS: Open.

BOARD BRIEFINGS:

1. Central Liquidity Facility Report and Report on CLF Lending Rate.
2. Insurance Fund Report.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Final Rule: Amendments to Part 705 and Section 701.32, NCUA's Rules and Regulations, Community Development Revolving Loan Program for Credit Unions.
3. Appeal of Regional Director's Decision to approve an Overlap of its Field of Membership by Sweetwater Federal Credit, Rock Springs, Wyoming.
4. Proposed Rule: Amendments to Sections 701.21, 700.1, and 722.3, NCUA's Rules and Regulations, Regulatory Relief.

TIME AND DATE: 8:30 a.m., Monday, April 19, 1993.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, N.W., Washington, D C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Staffing Allocations for FY 94. Closed pursuant to exemption (2).
3. Request from Corporate Credit Union to Amend Field of Membership under Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
4. Requests from Corporate Credit Unions for Waiver from Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).
5. Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (7), (8), (9)(A)(ii), and (9)(B).
6. Administrative Action under Part 747, NCUA's Rules and Regs. Closed pursuant to exemptions (8) and (9)(A)(ii).

RECESS: 10:30 a.m.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682–9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–8615 Filed 4–8–93; 3:03 pm]

BILLING CODE 7535–01–M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of April 12, 1993.

A closed meeting will be held on Tuesday, April 13, 1993, at 1:30. p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 13, 1993, at 1:30 p.m., will be:

Institution of injunctive actions.

Institution of administrative proceedings of an enforcement nature.

Reject Settlement of administrative proceeding of an enforcement nature.

Settlement of injunctive actions.
Opinions.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Brian Lane (202) 272–2400.

Dated: April 8, 1993.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–8638 Filed 4–8–93; 4:00 pm]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1457]

TIME AND DATE: 10 a.m. (CDT), April 14, 1993.

PLACE: National Fertilizer and Environmental Research Center Auditorium Muscle Shoals, Alabama.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on March 10, 1993.

ACTION ITEMS:

New Business

C—Energy

C1. Partners in Performance Contract for TVA Generating Group with Westinghouse Electric Corporation for Fossil and Hydro Power Plants, Subject to Final Review Prior to Execution.

C2. Delegation of Authority to Permit Mining of TVA-Owned Coal Lands.

C3. Contract with Williams Power Corp. for Fossil and Hydro Power Coatings Program, Subject to Satisfactory Negotiations and Final Review Prior to Execution.

C4. Contract with Harza Engineering Company for Specialized Hydro Engineering Services, Subject to Final Review Prior to Execution.

E—Real Property Transactions

E1. Sale of Gas Pipeline Easement Affecting 3.56 Acres of Land to the City of Memphis, Tennessee, Memphis Light, Gas and Water Division—Tract No. XALSP—1P.

E2. Sale of Permanent Easement Affecting Approximately 0.08 Acre of Land to the City of Murray, Kentucky, for a Sewer Line—TVA's Murray 161-kV Substation Property—Calloway County, Kentucky—Tract No. XMRSS–2S.

E3. Sale of Permanent Easement Affecting Approximately 0.07 Acre of Land to South Central Bell Telephone Company, for a Buried Communications Cabel—TVA's Newbern Substation Property—Tract No. XNSS—1UC—Dyer County, Tennessee.

E4. Grant of Permanent Easement Affecting 1.82 Acres of Land for a Water Treatment Plant Expansion—Waterworks Board of the Town of Grant, Alabama—Tract No. XTGR—156WP—Guntersville Lake.

E5. Sale of Nonexclusive Permanent Easement Affecting 0.22 Acre of Land for a Road Right-Of-Way—Ralph Green—Tract No. XCR–684H Chickamauga Lake—Map No. 84D.

E6. Sale of Nonexclusive Permanent Easement Affecting 0.04 Acre of Land for a Road Right-Of-Way—Dearl Myers and Dale Overholt—Tract No. XCK 574H—Cherokee Lake.

E7. Denial of Requests for Easement Rights, Waiver of Development Standards, and Section 26a Approvals—Chip Mill Barge Terminals—South Pittsburg, Tennessee.

F—Unclassified

F1. Filing of Condemnation Case.

F2. Time and Material On-Site Hardware Maintenance and Support Services Contract with Employee Owned Maintenance Company, Subject to Final Review Prior to Execution.

INFORMATION ITEMS:

1. Revised Contract Term for Economy Surplus Power.

2. Memorandum of Understanding Between TVA and the U.S. Environmental Protection Agency (EPA) for Participation in the EPA Green Lights Program as a Federal Agency.

3. Investment Management Agreement Between the Tennessee Valley Authority Retirement System and Nicholas-Applegate Capital Management.

4. Public Auction Sale of Tract No. XOR–10—Chickamauga-Georgia State Line Transmission Line Property—Chattanooga, Hamilton County, Tennessee.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

DATED: April 7, 1993.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 93–8533 Filed 4–8–93; 10:03 am]

BILLING CODE 8120–08–M

Corrections

Federal Register
Vol. 58, No. 68
Monday, April 12, 1993

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. 930355-3055]

Reef Fish Fishery of the Gulf of Mexico

Correction

In proposed rule document 93-6386 beginning on page 15132 in the issue of Friday, March 19, 1993, make the following corrections:

1. On page 15132, in the 2d column, in the 6th full paragraph, in the 12th line, "June 3, 1993" should read "June 28, 1993".

2. On page 15133, in the first column, in the first full paragraph, in the last line, "Magnuson" should read "Management".

3. On the same page, in the same column, in the third full paragraph, in the second line, insert "that concluded" after "rule".

§ 641.4 [Corrected]

4. On the same page, in the second column, in § 641.4(m)(1), in the fourth line, insert "a" before "vessel".

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP93-263-000]

Tennessee Gas Pipeline Co.; Request Under Blanket Authorization

Correction

In notice document 93-7369 appearing on page 16821 in the issue of Wednesday, March 31, 1993, the docket number was omitted. It should read as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-4592-4]

RIN 2060-AC97

Volatility Regulations for Gasoline and Alcohol Blends

Correction

In rule document 93-5863 beginning on page 14476 in the issue of Wednesday, March 17, 1993, make the following corrections:

1. On page 14485, in the second column, in Appendix D, in 4.2, in the last line, ">0.38 psi" should read "≤0.38 psi".

2. On page 14489, in the second column, in Appendix D, in 7.3.2, under Upper Control Limit "UCL=X" should read "UCL=$\bar{X}$"and under Lower Control Limit "LCL=X" should read "LCL=$\bar{X}$".

3. On page 14490, in the second column, in the file line, "93-5683" should read "93-5863".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

1993 Cost-of-Living Increase and Other Determinations

Correction

In notice document 92-25943 beginning on page 48619 in the issue of Tuesday, October 27, 1992, make the following corrections:

1. On page 48621, in the first column, under the heading "*Amount,*" in the fourth line, "1.037656" should read "1.0372656."

2. On the same page, in the third column, under the heading "*Exempt Amount for Beneficiaries Aged 65 through 69,*" in the eighth line, "$800" should read "$880."

3. On page 48622, in the 1st column, in the 3d full paragraph, the 12th and 13th lines should read "be rounded to $401 and $2,420. Accordingly, the portions of the average indexed monthly earnings to be used in 1993 are determined to be the first $401, the amount between $401 and $2,420, and the amount over $2,420."

4. On page 48623, in the second column, under the heading "*Amount,*" in the fourth line," 1.03722656" should read "1.0372656."

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 92-AGL-20]

Transition Area Modification; Brookings, SD

Correction

In rule document 93-6490 beginning on page 15264 in the issue of Monday, March 22, 1993, make the following correction:

§ 71.1 [Corrected]

On page 15265, in the second column, under the heading *Section 71.181 Designation of Transition Areas,* in the third line, "long. 90°" should read "long. 96°".

BILLING CODE 1505-01-D

federal register

Monday
April 12, 1993

Part II

Office of Personnel Management

Privacy Act of 1974; Amendment to Existing Notices of Systems of Records

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Amendment to Existing Notices of Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice of updated and deleted systems of records.

SUMMARY: This notice provides a complete text to facilitate public understanding of the Office of Personnel Management's notices for its eleven Internal and thirteen Central systems of records, last published in complete form in February 1990. Changes have been made to several notices to more accurately describe the categories of records and individuals covered by the system. Systems that are obsolete or are no longer maintained separately are deleted. This notice also proposes adding routine uses to several systems of records and proposes changes to routine uses found in most of the notices published.

DATES: The notices with the administrative (non-substantive) changes are effective May 12, 1993. The proposed altered entries and new routine uses will become effective, without further notice, June 11, 1993, unless comments dictate otherwise.

ADDRESSES: Written comments should be sent to C. Ronald Trueworthy, Chief, Information Policy Branch, Room CHP 500, Plans and Policies Division, Office of Information Resources Management, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Leslie Crawford, (703) 908–8550.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) last published its Central and Internal systems notices in complete form in February 1990. OPM's Governmentwide system notices were last published in August 1992. In this republication of OPM's Central and Internal system notices, three routine use changes occur in most systems of records. These changes are described here, and referred to in the system-by-system descriptions of the major changes which follows thereafter.

Routine Use Change I

To conform to case law, OPM is proposing to amend a routine use regarding the disclosure of information when complying with a subpoena. As currently written, this routine use allows the system manager to provide information when served with a subpoena, even if the Government is not a party to the litigation or to the administrative proceeding. In light of case law, OPM has decided that this practice no longer qualifies as a valid routine use and is in opposition to the allowable disclosures under subsection (b) of the Privacy Act. Therefore, OPM will no longer make routine use disclosures in response to a subpoena unless the Government is a party to the judicial or administrative proceeding. In those situations where the Government is not a party to the proceeding, records may be disclosed if a judge has signed the subpoena. In those cases, the disclosure will be made in accordance with subsection (b)(11) of the Privacy Act.

Routine Use Change II

OPM has decided to replace a generally worded routine use concerning disclosure of information relevant to a pending judicial or administrative proceeding with wording which is more precise concerning OPM's potential role in such litigation.

Routine Use Change III

A routine use which appears in most of the system notices has been corrected to indicate that the Office of the Special Counsel is an independent agency.

Other changes in this notice result from changes in the designation of systems managers and their addresses, changes to descriptions of records and individuals covered by the records, and the addition of routine uses to specified systems of records.

A brief description of the major changes follows:

OPM/INTERNAL–1, Defense Mobilization Emergency Cadre Records. The system location and manager have been updated. The entries for categories of individuals and records covered by this system have been clarified. Routine use "d" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "e." Routine uses "f" and "g" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure of information to the Merit Systems Protection Board, and by OPM in descriptive statistics and analytical studies. A section on record sources was added.

OPM/INTERNAL–2, Negotiated Grievance Procedure Records. The system location and manager have been updated. Routine use "f" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "i." Routine uses "m" and "n" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure of information relevant and necessary to a Federal agency's decision making, and disclosure of information to contractors/grantees/volunteers performing a service for the Federal government.

OPM/INTERNAL–3, Security Officer Control Files. The system location and manager have been updated. The entries for categories of individuals and records covered by this system have been clarified. Routine use "a" was reworded to be more accurate, and routine uses "e" and "f" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including by National Archives and Records Administration in records management inspections, and by OPM in descriptive statistics and analytical studies.

OPM/INTERNAL–4, Employee Occupational Health Program Records. The title of this system has been changed to more accurately represent the record system. The entries for system location, categories of individuals and records covered, and purpose have been clarified to indicate that records in the system cover all individuals who have received health services at the OPM Health Unit. New record categories have been added. Routine use "c" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "f." A note is added at the end of the routine use section reiterating the potential sensitivity of these records. The storage entry is updated to indicate records are no longer maintained on cards. The retrieval process is expanded to indicate records are retrieved by date of birth and Social Security Number as well as name. The entry on safeguarding the records is revised to indicate that these records are kept in lockable file cabinets. The notification, access, and contesting records procedures now have an individual's Social Security Number as a necessary part of the information an individual must furnish.

OPM/INTERNAL–5, Pay, Leave, and Travel Records. The system location and manager have been updated. The description of records included in the system has been expanded to include fare subsidy program records, and a new authority citation has been added. Routine use "m" is amended as described in Routine Use Change I , and

the more precise language described in Routine Use Change II is substituted for routine use "p." One new routine use has been added as "u" concerning disclosure of information in response to a Federal agency or Congressional inquiry request for relevant information. The storage entry has been updated to indicate that records are now also kept in automated form.

OPM/INTERNAL–6, Appeal and Administrative Review Records. The system location and manager have been updated. Routine use "f" is amended as described in Routine Use Change I , and the more precise language described in Routine Use Change II is substituted for routine use "i."

OPM/INTERNAL–7, Complaints and Inquiries Records. The system location and manager have been updated. Routine use "d" is amended as described in Routine Use Change I , and the more precise language described in Routine Use Change II is substituted for routine use "f." Routine uses "j," "k", and "l" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure of information relevant and necessary to a Federal agency's decision making, disclosure of information to contractors/grantees/ volunteers performing a service for the Federal government, and by OPM in descriptive statistics and analytical studies.

OPM/INTERNAL–8, Employee Counseling Services Program Records. The system location and manager have been updated.

OPM/INTERNAL–9, Employee Locator Card Files. Routine use "b" is amended as described in Routine Use Change I , and the more precise language described in Routine Use Change II is substituted for routine use "d." Routine uses "e" through "k" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure in circumstances of potential violation of civil or criminal law or regulation, by the National Archives and Records Administration, to the Merit Systems Protection Board, to the Equal Employment Opportunity Commission, to the Federal Labor Relations Authority, to a Federal agency in connection with relevant and necessary information for agency's decision making, and disclosure of information to contractors/ grantees/ volunteers performing a service for the Federal government. The system manager has been updated.

OPM/INTERNAL–10, Motor Vehicle Operator and Accident Report Records. The system location and manager have been updated. The entry for categories of records and purpose of records has been expanded to cover Government-rented vehicles in addition to Government-owned or leased vehicles. The purpose has been clarified to specify that such records may be used in settlement of claims and litigation regarding accidents involving a Government-owned, leased, or rented vehicle. Routine use "d" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "k." Wording is added to the retention entry to be more specific about how long the records are to be kept. The procedures for notification, access and contesting of records have been updated to indicate that individuals can direct inquiries to the Regional Director of the region that employs/employed the individual. The record source categories have been updated to add other Federal agency investigators as well as OPM investigators.

OPM/INTERNAL–11, Administrative Grievance Records. Routine use "e" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "k." The system manager is updated.

OPM/CENTRAL–1, Civil Service Retirement and Insurance Records. Information has been added to the categories of individuals and records concerning court orders submitted by former spouses of Federal employees who have received or are receiving CSR or FER benefits, or who have filed a court order for future benefits. Routine use "o" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "t." When this system notice was updated on August 10, 1992 (57 FR 35698) it inadvertently omitted a routine use that had been added in the **Federal Register** on September 27, 1990 (55 FR 39533). That routine use has been restored in this publication. A new routine use "oo" is added allowing an annuitant's spouse and/or dependent child(ren) access to health coverage information. The storage entry has been revised to indicate that records are also maintained on microfiche.

OPM/CENTRAL–2, Complaints and Inquiries Records. Routine use "e" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "g." The storage entry has been updated to indicate records are now also kept in an automated system. An addition was made to the system manager entry to show that inquiries can also be sent to the Regional Director of the region where the complaint or inquiry was filed. The entry for notification procedures was updated to indicate that such procedures apply to individuals who have answered complaints or inquiries, as well as those who have filed such actions. The record sources entry was modified to indicate that information is obtained from official documents related to not only a complaint, but also to an inquiry.

OPM/CENTRAL–3, Federal Executive Development Program and SES Candidate Development Program Records. This entry has been deleted in its entirety. OPM no longer maintains a separate system of records on FEDP or SES Candidate Development Program. Any such records are now encompassed in OPM/Central-13, Executive Personnel Records.

OPM/CENTRAL–4, Inspector General Investigations Case Files. Routine use "f" is amended as described in Routine Use Change I above. Since the more precise language is already existing in routine use "g," the repetitive routine use "j" was deleted. The wording of the section which details which parts of the records may be exempt from the Privacy Act has been revised to conform to the wording of OPM regulation 5 CFR 297.501(b)(1) for this system of records.

OPM/CENTRAL–5, Intergovernmental Personnel Act Assignment Records. The system location and manager have been updated. Routine use "d" is amended as described in Routine Use Change I above. The entries for storing, safeguarding, and disposing of the records have been updated to indicate that the records are now automated as well as on hard copy.

OPM/CENTRAL–6, Administrative Law Judge Application Records. The system location and manager have been updated. Routine use "g" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "j." Repetitive wording has been removed from the categories of record sources. The wording of the section which details which parts of the records may be exempt from the Privacy Act has been revised to conform to the wording of OPM regulation 5 CFR 297.501(b)(2) for this system of records.

OPM/CENTRAL–7, Litigation and Claims Records. The information on the individuals covered by the system of records is updated to reflect the amendment of the Military Personnel and Civilian Employees Claims Act of 1964 and the Federal Tort Claims Act.

The description of the records included in the system has been expanded to include final judicial determinations as well as administrative determinations. Two new U.S. Code references have been added to ensure the authority entry is as complete as possible. Routine use "e" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "i." The description of how the records are safeguarded has been updated and expanded to be more precise. The wording of the retention entry has been clarified to be more exact about the cutoff event that triggers the retention period. The wording of the section which details which parts of the records may be exempt from the Privacy Act has been revised to conform to the entry in OPM regulation 5 CFR 297.501(b)(3) for this system of records.

OPM/CENTRAL–8, Privacy Act/ Freedom of Information Act (PA/FOIA) Case Records. Routine use "c" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "j."

OPM/CENTRAL–9, Personnel Investigations Records. The Federal Investigations Processing Center of Boyers, PA, was added to the system location entry. The address of the Federal Investigations Processing Center was updated wherever it appeared in the notice. The description of individuals covered by the system was expanded to include contractor employees. In the authorities section, the reference to 5 CFR part 5 was replaced with a reference to Executive Order 10577. In routine uses "b" and "g" the references to the District of Columbia government was removed, as information from this system of records is not routinely released to that organization. Routine use "h" concerning the production of statistics and studies was expanded to match the routine use commonly found in most other OPM system notices. Routine use "j" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "m." A new routine use "q" is added to allow disclosure of information of contractors or volunteers working for the Federal Government. The previous entry describing how records are retrieved has been rewritten. The entry for retention and disposal for index cards has been deleted because those cards are no longer kept separately. The description of records sources is expanded to indicate that information is now received from certain sources by computer linkage. The wording of the section which details which parts of the records may be exempt from the Privacy Act has been revised to conform to the wording of OPM regulation 5 CFR 297.501(b)(5) for this system of records.

OPM/CENTRAL–10, Directory of Federal Executive Institute Alumni. The system location and manager have been updated. Routine uses "d" through "l" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure in circumstances of potential violation of civil or criminal law or regulation, by the National Archives and Records Administration, to the Merit Systems Protection Board, to the Equal Employment Opportunity Commission, to the Federal Labor Relations Authority, to a Federal agency in connection with relevant and necessary information, by OPM in descriptive statistics and analytical studies, when the Government is a party to a judicial or administrative proceeding or a subpoena has been signed by a judge, or when the Agency or any component (or employee in official capacity or in individual capacity if the Department of Justice or the Agency has agreed to represent the individual, or the U.S.) is a party to or interested in litigation.

OPM/CENTRAL–11, Presidential Management Intern Program Records. The system location and manager have been updated. Routine use "i" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "j."

OPM/CENTRAL–12, Survey Information Records. This entry has been deleted in its entirety. These records are obsolete and are no longer maintained by OPM.

OPM/CENTRAL–13, Executive Personnel Records. The system location and manager have been updated. The entry describing categories of individuals covered has been updated to reflect changes made as a result of implementation of the Federal Employees Pay Comparability Act of 1990. Routine use "i" is amended as described in Routine Use Change I, and the more precise language described in Routine Use Change II is substituted for routine use "j." Routine use "o" is amended to reflect changes made as a result of implementation of the Federal Employees Pay Comparability Act of 1990. Routine uses "p" and "q" were added to provide access procedures for this system of records that are already in common use for most other OPM systems of records, including disclosure to a Federal agency in connection with relevant and necessary information for agency's decisions, and disclosure of information to contractors/grantees/ volunteers performing a service for the Federal Government.

The required altered system report was submitted on April 1, 1993, to the Office of Management and Budget and the Congress.

Office of Personnel Management.

Patricia W. Lattimore,

Acting Director.

OPM/INTERNAL–1

SYSTEM NAME:

Defense Mobilization Emergency Cadre Records.

SYSTEM LOCATION:

Security Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current OPM employees who are members of the Defense Mobilization Cadre.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of records containing name, address, telephone number, and private automobile information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

Federal Civil Defense Act of 1950.

PURPOSE:

The records serve to identify and register members of the two emergency cadres. The originals and one copy of the records are maintained in OPM's Mobilization Office files (alphabetically and by cadre) for administrative purposes. The third copy is sent to the OPM Relocation Site for use in granting access to the site in the event cadre members must relocate under emergency conditions. The records are a source of personal data for preparation of Federal Emergency Identification Cards, carried by cadre members to facilitate necessary travel under emergency conditions and formation of carpools as might be practical in the event of an emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local

agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. By the National Archives and Records Administration in records management inspections.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

e. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

f. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

g. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by individual name and emergency cadre.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an emergency cadre member. Expired records are burned.

SYSTEM MANAGER AND ADDRESS:

Chief, Security Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

OPM employees wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

RECORDS ACCESS PROCEDURE:

OPM employees wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish their full names for their records to be located and identified.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Since all record information is provided by the individual employee who is the subject of the record, most record corrections can be handled through established administrative procedures for updating the records. However, OPM employees wishing to contest records about them under provisions of the Privacy Act should contact the system manager indicated above. Individuals must furnish their full name for the records to be located and identified.

An individual requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. OPM Cadre lists.

b. OPM Cadre members.

OPM/INTERNAL–2

SYSTEM NAME:

Negotiated Grievance Procedure Records.

SYSTEM LOCATION:

Office of Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and Office regional administrative offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Office employees who have filed grievances under a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to an employee's grievance filed under procedures established by labor-management negotiations. The records may include information such as: Employee's name, Social Security number, grade, job title, employment history, arbitrator's decision or report, record of appeal to the Federal Labor Relations Authority, and a variety of employment and personnel records associated with the grievance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

5 U.S.C. 7121.

PURPOSE:

These records are used to process an employee's grievance filed under a negotiated grievance procedure.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the Department of Labor in carrying out its function regarding labor-management relations in the Federal service.

b. To disclose information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

c. To disclose pertinent information to the appropriate Federal, State, or local

agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested in the course of resolving a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

e. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

g. By the National Archives and Records Administration in records management inspections.

h. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

j. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair practices or matters before the Federal Service Impasses Panel.

m. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of three years after the close of the fiscal year in which a final decision was issued. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals who file a grievance under a negotiated procedure are aware of that fact and have been provided access to the record. They may, however, contact the system manager indicated, or OPM regional office where the grievance was processed regarding the existence of such records about them. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Approximate date of closing of the grievance.

d. Organizational component involved.

RECORDS ACCESS PROCEDURE:

Individuals who file a grievance under a negotiated grievance procedure are aware of that fact and have been provided access to the record. However, after the grievance has been closed, an individual may request access to the official copy of the grievance record by writing the appropriate system manager or regional office, as indicated in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Approximate date of closing of the grievance.

d. Organizational component involved.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of an administrative, judicial, or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request

amendment of their records to correct factual errors should contact the appropriate system manager or OPM regional office indicated in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Approximate date of closing of the grievance.
d. Organizational component involved.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual on whom the record is maintained.
b. Testimony of witnesses.
c. Union officials.
d. Office of Personnel Management officials.
e. Department of Labor, Federal Labor Relations Authority, or arbitration officials involved in the grievance.

OPM/INTERNAL–3

SYSTEM NAME:

Security Officer Control Files.

SYSTEM LOCATION:

Security Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 and OPM regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on active, inactive, and pending OPM employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in the system contain date of birth, Social Security Number, classification as to position sensitivity, types and dates of investigations, investigative reports including those from Federal law enforcement agencies, Department of Defense, and internal inquiries, dates and levels of clearances, and names of agencies and the reason why they were provided clearance information on OPM employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

Executive Orders 10450 and 12065.

PURPOSE:

These records are used exclusively by OPM Security Officers and the employees of Security Offices for administrative reference in connection with controlling position sensitivity and personnel clearances.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to:

a. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request in connection with the issuance of a security clearance or the conducting of a security or suitability investigation of an individual, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to the security office of an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request for verification of security clearance, to enable OPM employees to have access to classified data or areas where their official duties require such access.

e. By the National Archives and Records Administration in records management inspections.

f. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on disks, cards, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name and date of birth of the individuals on whom they are maintained.

SAFEGUARDS:

The disks, cards, and file folders are stored in fire-resistant safes contained within a secured area, in lockable metal file cabinets, or in secured rooms. The disks, cards, and file folders do not leave the security office.

RETENTION AND DISPOSAL:

Most records are retained for five years after the individual leaves OPM and then are disposed of by erasing the disks or burning the cards. Folders containing investigative reports are transferred with the employee when reassigned in OPM or returned to the Investigations Group when the individual leaves OPM.

SYSTEM MANAGER AND ADDRESS:

Chief, Security Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 for central office employees. Regional Directors for regional office employees.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager as indicated. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the appropriate system manager as indicated. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the appropriate system manager as indicated. Individuals must furnish the following information for their record to be located and identified:

a. Full name.
b. Date of birth.

An individual requesting amendment must also follow OPM's Privacy Act regulations regarding verification of

identity and access to records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the information applies.

b. OPM's investigative files maintained by the Investigations Group.

c. Employment information maintained by OPM's Director of Personnel or regional personnel offices.

d. Officials of OPM.

e. Federal law enforcement agencies, Department of Defense, and through external and internal inquiries.

OPM/INTERNAL–4

SYSTEM NAME:

Health Program Records.

SYSTEM LOCATION:

Associate Director for Administration, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 for individuals receiving health services at the central office. Other OPM employees receive health services from other agencies, such as the Public Health Service or the General Services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have received health services from OPM's Health Unit at 1900 E Street NW.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of an individual's utilization of services provided by the OPM Health Unit. These records contain the following information:

a. Medical history and other biographical data on those individuals requesting employee health maintenance physical examinations.

b. Test reports and medical diagnoses based on employee health maintenance physical examinations or health screening programs (tests for medical conditions or diseases).

c. History of complaint(s), assessment, and treatment of injuries and illness presented to Health Unit staff.

d. Immunization records.

e. Medication administered by Health Unit staff.

f. Referrals to other health care providers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

5 U.S.C. 7901, as further defined in OMB Circular No. A–72.

PURPOSE:

These records document utilization of health services provided by OPM's Health Unit.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

d. To disclose to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

Note: Disclosure of these records beyond officials of OPM having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restriction of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations 42 CFR part 2. Records pertaining to the physical and mental fitness of employees are, as a matter of OPM policy, afforded the same degree of confidentiality and are generally not disclosed.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained as hard copy records.

RETRIEVABILITY:

These records are retrieved by the name, date of birth, or Social Security Number of the individual to whom they pertain.

SAFEGUARDS:

These records are maintained in lockable file cabinets in a room with access limited to Health Unit personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of the central office Health Unit are maintained up to 6 years from the date of the last entry. Employees are given their records on request upon separation, otherwise the records are burned approximately 3 months after separation.

SYSTEM MANAGER AND ADDRESS:

Chief, Health Unit, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Social Security Number.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.
d. Social Security Number.

Any individual requesting access must also follow OPM's Privacy Act regulation regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Any former name.
c. Date of birth.
d. Social Security Number.

An individual requesting amendment must also follow OPM's Privacy Act regulation verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the information pertains.
b. Laboratory reports and test results.
c. OPM Health Unit physicians, nurses and other medical technicians who have examined, tested, or treated the individual.
d. The individual's coworkers or supervisors.
e. The individual's personal physician.
f. Other Federal employee health units.

OPM/INTERNAL–5

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of Procurement and Administrative Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and in the office where the individual is currently employed for use by timekeeper, budget and finance, travel personnel, or fare subsidy program manager/coordinator.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains various records relating to pay, leave, and travel. This includes information such as: Name; date of birth; Social Security Number; home address; grade; employing organization; timekeeper number; salary; pay plan; number of hours worked; leave accrual rate, usage, and balances; Civil Service Retirement and Federal Retirement System contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; travel expenses; and information on the leave transfer program and fare subsidy program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

31 U.S.C. 66a; 5 U.S.C. 5501 et seq., 5525 et seq., 5701 et seq., and 6301 et seq.; Executive Order 9397; Pub. L. 100–202, Pub. L. 100–440, and Pub. L. 101–509.

PURPOSE:

These records are used to administer the pay, leave, and travel requirements of OPM and in the administration of the fare subsidy program. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.
b. By the Department of the Treasury to issue checks and U.S. Savings Bonds.
c. By State offices of unemployment compensation with survivor annuity or health benefits claims or records reconciliations.
d. By Federal Employee's Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.
e. To disclose information to the Internal Revenue Service and State and local tax authorities.
f. To provide officials of labor organizations recognized under 5 U.S.C. Chapter 71 with information as to the identity of OPM employees contributing union dues each pay period and the amount of dues withheld from each contributor.
g. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.
h. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.
i. To disclose information to any source from which additional information is requested relevant to an OPM determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.
j. To disclose information to a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.
k. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.
l. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.
m. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.
n. By the National Archives and Records Administration in records management inspections.
o. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

p. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

q. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

r. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

s. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

t. To disclose, annually, pay data to the Social Security Administration and the Department of the Treasury as required.

u. To disclose information to a Federal agency or Congressional inquiry from which additional or statistical information is requested relevant to the OPM Fare Subsidy Program.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures to Consumer Reporting Agencies Pursuant to 5 U.S.C. 552a(b)(12):

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in an automated data base, in file folders and loose leaf binders, and on cards and magnetic tapes.

RETRIEVABILITY:

These records are retrieved by the names, Social Security Numbers, or OPM employee identification numbers of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with NARA General Records Schedules 2 (pay and leave) and 9 (travel). Disposal of manual records is by shredding or burning; magnetic tapes are erased.

SYSTEM MANAGER AND ADDRESS:

Assistant Director of Procurement and Administrative Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information on them should contact the system manager indicated, or the OPM regional office where the individual is or was employed.

Individuals must furnish the following for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. OPM employment identification number.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated, or the OPM regional office where the individual is or was employed. Individuals must provide the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. OPM employment identification number.

Individuals requesting access must also follow the OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager indicated, or the OPM regional office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. OPM employment identification number.

Individuals requesting amendment must also follow the OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the record pertains.
b. OPM officials responsible for pay, leave, and travel requirements.
c. Other official personnel documents of OPM.

OPM/INTERNAL–6

SYSTEM NAME:

Appeal and Administrative Review Records.

SYSTEM LOCATION:

Office of Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, or OPM regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the OPM.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to various appeal or administrative review procedures available to OPM employees. These appeals or administrative review procedures

include adverse action appeals initiated prior to September 9, 1974, which were processed under OPM's internal appeals system; reconsiderations of acceptable level of competence determinations for within-grade increases; impartial reviews of performance ratings; and internal appeals of position classification decisions. The system also contains records and documentation of the action upon which the appeal or review procedure was based (e.g., 90-day notices of warning of unsatisfactory performance rating).

Note: The system does not include:

a. Appeal or complaint records covered by the Merit Systems Protection Board's system of Appeals Records; or

b. Records for grievances processed under OPM's administrative grievance procedure or under the grievance system negotiated by OPM and a recognized labor organization, which are covered under the OPM/INTERNAL–3 and OPM/INTERNAL–11 systems of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 1302, 3301, 3302, 4305, 5115, 5335, 7501, 7512, and Executive Order 10577.

PURPOSE:

These records are used to process the various appeals or administrative reviews available to OPM employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested in the course of processing an appeal or administrative review procedure, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made the request of that individual.

f. To disclose information to another Federal agency, to a court, or a party in litigation before a court, or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

g. By the National Archives and Records Administration in records management inspections.

h. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

j. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, reviews of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Adverse action appeals initiated prior to September 9, 1974, which were processed under OPM's internal appeals system are retained for 7 years after the closing of the case. Other records in the system are maintained for a maximum of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Office of Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the records. They may, however, contact the system manager indicated, or the OPM regional

office where the action was processed, regarding the existence of such records about them. They must furnish the following information for their records to be located and identified.

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURE:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an appeal or administrative review procedure record by contacting the system manager or appropriate OPM regional office. Individuals must provide the following information for their records to be located and identified.

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of actions taken.

d. Organizational component involved.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the system manager or appropriate OPM regional office. Individuals must furnish the following information for their records to be located and identified.

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from:

a. The individual to whom the records pertain.

b. OPM officials involved in the appeal or administrative procedure.

c. Other official personnel records of OPM.

OPM/INTERNAL–7

SYSTEM NAME:

Complaints and Inquiries Records.

SYSTEM LOCATION:

Office of Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 and OPM regional personnel offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current OPM employees about whom complaints or inquiries have been received.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information or correspondence concerning an individual's employment status or conduct while employed by OPM. Examples of these records include: Correspondence from Federal employees, members of Congress, or members of the public alleging misconduct of an OPM employee; and miscellaneous complaints not covered by OPM's formal or negotiated grievance procedure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

Executive Order 11222.

PURPOSE:

These records are used to take action on or respond to a complaint or inquiry concerning an OPM employee or to counsel the employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an OPM decision concerning the individual employee, e.g., on the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the issuance of a license, grant, or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court, or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

e. By the National Archives and Records Administration in records management inspections.

f. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

g. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

h. To disclose information to the Equal Employment Opportunity Commission when requested in

connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

i. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

j. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

k. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

l. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on cards and in file folders which are separate from the employee's Official Personnel Folder.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are filed in lockable metal filing cabinets with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

These records are disposed of upon the transfer or separation of the employee or after 1 year, whichever is earlier. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

OPM employees wishing to inquire whether this system contains information about them should contact the system manager or the appropriate OPM regional personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth

RECORD ACCESS PROCEDURE:

OPM employees wishing to request access to their records should contact the system manager or the appropriate OPM regional personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

OPM employees wishing to request amendment of their records should contact the system manager or the appropriate OPM regional personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the information pertains.

b. Federal employees, Members of Congress, creditors, or members of the public who submitted the complaint or inquiry.

c. OPM officials.

d. Other source from whom information was requested regarding the complaint or inquiry.

OPM/INTERNAL–8

SYSTEM NAME:

Employee Counseling Services Program Records.

SYSTEM LOCATION:

Office of Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and OPM Regional Offices.

Note: In order to meet the statutory requirement that agencies provide appropriate prevention, treatment, and rehabilitation programs and services for employees with alcohol or drug problems, and to better accommodate establishment of a health service program to promote employees' physical and mental fitness, it may be necessary for an agency to negotiate for use of the counseling staff of another Federal, State, or local government, or private sector agency or institution. This system also covers records on OPM employees that are maintained by another Federal, State, or local government, or private sector agency or institution under such a negotiated agreement. When one or more Federal agencies wish to jointly make similar arrangements for employees, in order to ensure compliance with the law and to promote the agency health service program, OPM may, on behalf of the participating agencies, negotiate an agreement that provides such services through another Federal, State, or local government, or private sector agency or institution. However, when such is the case, this system will not cover records pertaining to employees of other participating agencies. Such records are considered by OPM as being part of the employing agency's internal system of records covering agency employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees who have been counseled or otherwise treated regarding alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the diagnosis, recommended treatment, results of treatment, and other notes or records of discussions held with the employee made by the counselor. Additionally, records in this system may include documentation of treatment by a private therapist or a therapist at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 3301 and 7901, 21 U.S.C. 1101 and 1108, 42 U.S.C. 4541 and 4561, and 44 U.S.C. 3101.

PURPOSE:

These records are used to document the nature of the individual's problem and progress made and to record an individual's participation in and the results of community or private sector treatment or rehabilitation program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of OPM in connection with the individual.

b. To disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by OPM, all patient identifying information shall be removed).

Note: Disclosure of these records beyond officials of OPM having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restriction of the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR part 2. Records pertaining to the physical and mental fitness of employees are, as a matter of OPM policy, afforded the same degree of confidentiality and are generally not disclosed.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets labeled confidential with access strictly limited to employees directly involved in OPM's alcohol and drug abuse prevention function (as that term is defined in 42 CFR part 2).

RETENTION AND DISPOSAL:

Records are maintained for three to five years after the employee's last contact with OPM's prevention function or, if the employee leaves the agency, until the Employee Counseling Service Program Annual Report for the fiscal year in which separation occurred is prepared. Records are destroyed by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

OPM employees wishing to inquire whether this system of records contains information about them should contact the OPM Employee Counseling Services Program coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

RECORD ACCESS PROCEDURE:

OPM employees wishing to request access to records pertaining to them should contact the OPM Employee Counseling Services Program coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified.

a. Name.

b. Date of birth.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

OPM employees wishing to request amendment to these records should contact OPM's Employee Counseling Service Program coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment or records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the record applies.

b. The supervisor of the individual if the individual was referred by a supervisor.

c. The Employee Counseling Services Program staff member who records the counseling session.

d. Therapists or institutions providing treatment.

OPM/INTERNAL–9

SYSTEM NAME:

Employee Locator Card Files.

SYSTEM LOCATION:

Personnel and administrative offices of the Office of Personnel Management, 1900 E Street NW., Washington, DC 20415 and OPM regional and area offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of OPM.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information regarding the organizational location and telephone extension of individual OPM employees. The system also contains the home address and telephone number of the employee and the name, address, and telephone number of an individual to contact in the event of a medical or other emergency involving the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 301.

PURPOSE:

Information is collected for this system for use in preparing telephone directories of the extensions of OPM employees. The records also serve to identify an individual for OPM officials to contact, should an emergency of a medical or other nature involving the employee occurs while the employee is on the job. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial

or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

c. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

e. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of a violation or potential violation of civil or criminal law or regulation.

f. By the National Archives and Records Administration in records management inspections.

g. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

h. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

i. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair practices or matters before the Federal Service Impasses Panel.

j. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

k. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal Government.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards or in an automated format.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in secured areas and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an employee of OPM. Expired records are destroyed by burning, shredding, or erasure of tapes/disks.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

OPM employees wishing to inquire whether this system contains information about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

RECORD ACCESS PROCEDURE:

OPM employees wishing to request access to records about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR Part 297).

CONTESTING RECORD PROCEDURE:

OPM employees may amend information in these records at any time by resubmitting updating information. Individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the appropriate OPM administrative officer where employed.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information is provided by the individual who is the subject of the record.

OPM/INTERNAL–10

SYSTEM NAME:

Motor Vehicle Operator and Accident Report Records.

SYSTEM LOCATION:

Office of Procurement and Administrative Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and OPM regional administrative offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of OPM.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains documents related to the authorization and issuance to an individual of a Government motor vehicle operator's permit; also included are reports, correspondence, and fiscal documents concerning automobile accidents occurring in a Government-owned,

leased, or rented vehicle or in a privately-owned vehicle while on official business.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

28 U.S.C. 171.

PURPOSE:

These records serve to document issuance of a Government motor vehicle operator's permit; accident reports and related documents may be used in settlement of claims and litigation regarding an accident involving a Government-owned, leased, or rented motor vehicle or privately-owned vehicle while being used on official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information any source from which additional information is requested (to extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), when necessary to obtain information relevant to an office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a grant or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

e. By the National Archives and Records Administration in records management inspections.

f. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose accident report record information to officials of labor organizations recognized under the Chapter 71, title 5, U.S.C. when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation, the classifying of jobs, or the award of a contract, license, grant, or other benefit.

i. To disclose information to the General Services Administration about accidents involving Government owned or leased automobiles.

j. To disclose information to insurance carriers about accidents involving privately-owned vehicles.

k. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on indexed application cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Motor vehicle operator records are maintained for three years after the separation of the employee (operator) and are destroyed by shredding. Accident reports are maintained for 6 years after the file is closed and are destroyed by shredding, except in cases involving litigation. In cases involving litigation, these records are to be maintained for seven years after the litigation is resolved.

SYSTEM MANAGER AND ADDRESS:

a. For motor vehicle operator records: Assistant Director, Office of Procurement and Administrative Services, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, or the appropriate Regional Director.

b. For accident report records: Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. For accident report records, contact the system manager indicated or the appropriate Regional Director of the region that employs the current or former regional employee.

b. Motor vehicle operator records for current or former central office employees, contact the system manager indicated.

c. Motor vehicle operator records for current and former regional OPM employees, contact the Regional Director of the region in which employed.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the appropriate office as follows:

a. For accident report records, contact the system manager indicated or the appropriate Regional Director of the region that employs the current or former regional employee.

b. For motor vehicle operator records of current or former central office employees, contact the system manager indicated.

c. For motor vehicle operator records of current or former regional employees, contact the Regional Director of the region in which employed.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

Note: The Office of General Counsel, pursuant to 5 U.S.C. 552a (d)(5) reserves the right to refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the appropriate office as follows:

a. For accident report records, contact the indicated system manager or the appropriate Regional Director of the region that employs the current or former regional employee.

b. For motor vehicle operator records of current or former central office employees, contact the system manager indicated.

c. For motor vehicle operator records of current or former regional employees, contact the Regional Director of the region in which employed.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom the record pertains.

b. OPM employees and other parties involved in the accident.

c. Witnesses to the accident.

d. Police reports and reports of investigations conducted by OPM investigators and other Federal agency investigators.

e. Officials of OPM and the General Services Administration.

OPM/INTERNAL–11

SYSTEM NAME:

Administrative Grievance Records.

SYSTEM LOCATION:

These records are located in the personnel or other designated office of the OPM Central or Regional office where the grievance was filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former OPM employees who have filed grievances under OPM's administrative grievance procedures in accordance with part 771 of OPM's regulations (5 CFR part 771).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by OPM employees under administrative procedures and in accordance with part 771 of OPM's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits. This system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 CFR part 771.

PURPOSE:

These records are used to process grievances submitted by OPM employees for personal relief in a matter of concern of dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

f. By the National Archives and Records Administration records management inspections.

g. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit System Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

i. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

j. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of

allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

k. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Personnel, Administration Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their records which have been the subject of an administrative, judicial, or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual on whom the record is maintained.

b. Testimony of witnesses.

c. Agency officials.

d. Related correspondence from organizations or persons.

OPM/CENTRAL–1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Retirement and Insurance, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415. Certain records pertaining to State income tax withholdings from annuitant payments are located with State Taxing Offices. Certain information concerning enrollment/change in enrollment in a health plan under the Federal Employee Health Benefits Program may be located at other agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Former Federal employees and members of Congress who performed service subject to the Civil Service Retirement (CSR) or Federal Employees Retirement (FER) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under the CSR system; or

(3) Requested OPM to review claim for health benefits made under the Federal Employees Benefits Program; or

(4) Enrolled/changed enrollment in a plan under the Federal Employees Health Benefits Program; or

(5) Filed a service credit application in connection with former Federal service; or

(6) Filed an application for disability retirement with OPM and are waiting final decision, or whose disability retirement application has been disapproved by OPM.

c. Former Federal employees who died subject to or who retired under the CSR or FER system, or their surviving spouses and/or children, who have received or are receiving CSR or FER benefits, Federal Employees Group Life Insurance benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government retirement system other than CSR or FER system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

f. Former spouses of Federal employees who have received or are receiving CSR or FER benefits, or who have files a court order awarding future benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system comprises those retirement service history records of employees' service in the Federal Government other than for the agency in which they may presently be employed. Also included in the system are current personnel data pertaining to active United States Postal Service employees who, by virtue of the provisions set forth in 5 U.S.C. 2105(e), are not considered civil service employees. It also contains information concerning health benefit enrollment/change in enrollment, and information developed in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees that OPM administers. Also included are medical records and supporting evidence on those individuals whose application for disability retirement has been rejected. Consent forms and other records related to the withholding of State income tax from annuitant payments, whether physically maintained by the State or OPM, are included in this system. These records contain the following information:

a. Documentation of Federal service subject to the CSR or FER system.

b. Documentation of service credit and refund claims made under the CSR or FER system.

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by OPM), and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employee Health Benefits program be reviewed by OPM.

f. Enrollment and change in enrollment information under the Federal Employees Health Benefits Program.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR or FER system, or for compensationers and their survivors under the Office of Workers Compensation Programs.

h. The system also maintains a file of court orders submitted by former spouses of Federal employees. These court orders are submitted to support claims to apportion funds/benefits due to a Federal employee at some point in the future.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS OR AMENDMENTS:

Section 3301 and chapters 83, 84, 87, and 89 of title 5, United States Code; Pub. L. 83–598, 84–356, 86–724, and 94–455; and Executive Order 9397.

PURPOSE:

These records provide information and verification on which to base entitlement and computation of CSR or FER and survivors' benefits, Federal Employees Health benefits and enrollments, and Federal Employees Group Life Insurance benefits, and to withhold State income taxes from annuitant payments. These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research. These records also provide information and verification concerning enrollment/change in enrollment in a plan under the Federal Employees Health Benefit Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under OPM's or the recipients' benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS' Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the CSR or FER system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To disclose to the Federal Employees Group Life Insurance Office information necessary to verify the election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with OPM to provide a health benefits plan under the Federal Employees Health Benefits Program, Social Security Numbers and other information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls, and, if so, the type of annuity (employment or survivor, but not retirement on disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump-sum benefits, information in the individual's record that might properly be disclosed to the individual, and the name and relationship of any other person whose claim for benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954, as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains, and who is found by a court or OPM Medical Officers to be incompetent or under other legal disability, information necessary to assure payment of benefits to which the individual is entitled.

i. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant, or former employee, for enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Medical examination procedures; or

(2) Agency-filed disability retirement procedures. To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence other than

medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when OPM becomes aware of an indication of a violation or potential violation of a civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to OPM determination on an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefits program, to the extent necessary to identify the individual and the type of information requested.

m. To disclose information to the Office of Management and Budget at any stage of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular NO. A–19.

n. To disclose information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

p. To disclose to a Federal agency, in response to its request, information in connection with the hiring, retention, separation, or retirement of an employee; the issuance of a security clearance; the reporting of an investigation of an employee; the letting of a contract; the classification of a job; or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that OPM determines that the information is relevant and necessary to the requesting party's decision on the matter.

q. By the National Archives and Records Administration in records management and inspections.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies to support the function for which the records were collected and maintained.

s. By OPM, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to OPM specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant or applicant for refund of retirement deductions, if the agency requires that information to provide consideration in connection with the collection of a debt due the United States.

w. To disclose information in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the subject's last known address.

x. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

y. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines of Employee Selection Procedures, or other functions vested in the Commission.

z. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

aa. To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs to contact the former employee concerning a possible threat to his or her health or safety.

bb. To disclose to an allottee, as defined in 5 CFR 831.1501, the name, address, and the amount withheld from an annuitant's benefits, pursuant to 5 CFR 831.1501 et seq. as an allotment to that allottee to implement the program of voluntary allotments authorized by 5 U.S.C. 8345(h) or 8465.

cc. To disclose to a State agency responsible for the collection of State income taxes the information required by an Agreement to Implement State Income Tax Withholdings from Civil Service Annuities entered pursuant to section 1705 of Pub. L. 9735 or 5 U.S.C. 8469 to implement the program of voluntary State income tax withholding required by 5 U.S.C. 8345(k) or 8469.

dd. To disclose to the Social Security Administration the Social Security Numbers of civil service annuitants to determine (1) their vital status as shown in the Social Security Master Records; (2) whether recipients of the minimum annuity are receiving at least the Special Primary Insurance Amount benefit from the Social Security Administration; and (3) whether civil service retirees with post-1956 military service credit are receiving benefits from the Social Security Administration.

ee. To disclose to a requesting agency, organization, or individual, the home address and other relevant information on those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from, a health hazard while employed in the Federal work force to protect the health and safety of the affected employees.

ff. To disclose information contained in the Retirement Annuity Master File; including the name, Social Security Number, date of birth, sex, OPM's claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and ZIP code, of all Federal retirees to agencies to help eliminate fraud and abuse in the benefit programs administered by agencies within the Federal Government and to collect debts and overpayments owed to the Federal Government.

gg. To disclose information contained in the Retirement Annuity Master File, including the name, Social Security Number, date of birth, sex, OPM's claim number, health benefit enrollment code, retirement date, retirement code (type of retirement), annuity rate, pay status of case, correspondence address, and ZIP code, of all Federal retirees and their survivors to requesting States to help eliminate fraud and abuse in the benefit programs administered by the States (and those States to local governments) and to collect debts and overpayments owed to those governments and their components.

hh. To disclose to a Federal agency, a person or an organization contracting with a Federal agency for rendering collection services within the purview of section 13 of the Debt Collection Act of 1982, in response to a written request from the head of the agency or his or her designee, or from the debt collection contractor, the following data concerning an individual owing a debt to the Federal Government: (1) The debtor's name, address, Social Security Number, and other information necessary to establish the identity of the individual; (2) the amount, status, and history of the claim; and (3) the agency or program under which the claim arose.

ii. To disclose information contained in the Retirement Annuity Master File, upon written request, to state tax administration agencies, for the express purpose of ensuring compliance with state tax obligations by persons receiving benefits under the Civil Retirement System or the Federal Employees Retirement System, and to prevent fraud and abuse, but only the following data elements: Name, correspondence address, date of birth, sex, Social Security Account Number, annuity rate, commencing date of benefits, and retirement code (type of retirement).

jj. To disclose information to a State court or administrative agency in connection with a garnishment, attachment, or similar proceeding to enforce an alimony or child support obligation.

kk. To disclose to a former spouse when necessary to explain how that former spouse's benefit under 5 U.S.C. 8341(h), 8345(j), 8445, or 8467 was computed.

ll. To disclose to a Federal or State agency (or its agent) when necessary to locate individuals who are owed money or property either by a Federal agency, state or local agency, or by a financial institution or similar institution.

mm. To disclose to a health plan participating in the Federal Employees Health Benefits Program (FEHBP) and to an FEHBP enrollee or covered family member or an enrollee or covered family member's authorized representative, in connection with the review of a disputed claim for health benefits, from information maintained within this system of records, the decision of OPM regarding the disputed claim review.

nn. To disclose to a State or local government, or private individual or association engaged in volunteer work, identifying and address information and other pertinent facts, for the purpose of developing an application as representative payee for an annuitant or survivor annuitant who is mentally incompetent or under other legal disability.

oo. To disclose on request to a spouse or dependent child (or court-appointed guardian thereof) of a CSR or FER system annuitant or an annuitant of any other Federal retirement system enrolled in the Federal Employees Health Benefits Program whether the annuitant has changed from a self-and-family to a self-only health benefits enrollment.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12)

Disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, disks, microfiche, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth, and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records on a claim for retirement, life insurance, health benefits, and tax withholdings are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER AND ADDRESS:

Associate Director for Retirement and Insurance, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.
b. Date of birth.
c. Social Security Number.
d. Name and address of office in which currently and/or formerly employed in the Federal Service.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.
b. Date of birth.
c. Social Security Number.
d. Name and address of office in which currently and/or formerly employed in the Federal service.
e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow OPM's Privacy Act regulations on verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records in this system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. National Personnel Records Center.

d. Federal civilian retirement systems other than the CSR/FER systems.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Program.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor, and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Programs.

j. The Office of Federal Employees Group Life Insurance.

k. Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

n. Former spouse of the individual.

o. State courts or support enforcement agencies.

OPM/CENTRAL–2

SYSTEM NAME:

Complaints and Inquiries Records.

SYSTEM LOCATION:

Agency Compliance and Evaluation, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and OPM regional offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have filed complaints or submitted an inquiry about conditions in the agency or agency personnel actions affecting the individual, e.g., allegations or improper promotion actions, reduction-in-force procedures, or Fair Labor Standards Act (FLSA) procedures.

b. Persons who are not current or former Federal employees who have complained or inquired about an agency decision or action related to the general area of personnel management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing and adjudication of a complaint made to OPM under its regulations. The records may include information and documents regarding the actual personnel action of the agency in question and the decision or determination rendered by an agency regarding the issue raised.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 1302 and 3502; Executive Orders 9830, 10577, and 11491; and Pub. L. 93–259.

PURPOSE:

The principal purpose for which these records are established is to retain a record of correspondence with an individual, over a complaint or inquiry, as a reference should that individual again contact OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

c. To disclose information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating an appeal or complaint, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

f. By the National Archives and Records Administration in records management inspections.

g. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in an automated system and in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

The records are located in lockable metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

a. Records related to most complaints or inquiries about conditions at an agency, or an agency's personnel actions

affecting an individual, are maintained until the second calendar year following closing action on the complaint.

b. Records related to Fair Labor Standard Act complaints are maintained indefinitely.

c. All records are destroyed by shredding or burning.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, or the appropriate Regional Director where the complaint or inquiry was filed.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager, with the following exception:

Individuals who have filed or answered complaints or inquiries with an OPM regional office should contact the regional office. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. If appropriate, the agency in which employed when the complaint or inquiry was filed and the approximate date.

c. Kind of response received.

RECORD ACCESS PROCEDURE:

Individuals who have filed a complaint or inquiry about an agency personnel action or about conditions existing in an agency will receive a response and, if necessary, be provided access to any other pertinent record. After a response to a complaint or inquiry has been received, an individual may request access to the official copy of the correspondence record by writing the system manager or OPM regional office indicated in the Notification Procedure section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.

c. Kind of response received.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Review of requests from individuals seeking amendment of their correspondence file records will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the nature of the complaint or inquiry, the identity of the individual, and the response furnished. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. If appropriate, the agency in which employed when the complaint or inquiry was filed and the approximate date.

c. Kind of response received.

Individuals requesting amendment of their records must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. Individuals to whom the record pertains.

b. Agency and/or OPM offices.

c. Official documents relating to the complaint or inquiry.

d. Related correspondence from organizations or individuals.

OPM/CENTRAL–3

[Reserved]

OPM/CENTRAL–4

SYSTEM NAME:

Inspector General Investigations Case Files.

SYSTEM LOCATION:

Office of the Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees, certain current and former employees of other Federal agencies, annuitants, and contractors with OPM.

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files contain individual identifiers such as name, date of birth, Social Security Number, employee number, civil service retirement case file number, and related personal information. Case files are created pertaining to matters including the following: (1) Fraud against the Government; (2) Theft of Government property; (3) Misuse of Government property; (4) Improper personal conduct; (5) Irregularities in awarding contracts; (6) Improper personnel practices; and (7) Initiatives arising from the President's Council on Integrity and Efficiency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 301 and Pub. L. 100–504.

PURPOSE:

Information in case files serves to document the outcome of investigations, reporting the results of investigations to other OPM components or agencies for their use in evaluating their programs and imposition of any civil or administrative sanctions, and, if appropriate, reporting the results of the investigations to other agencies for any action deemed appropriate, and for retaining sufficient information to fulfill the reporting requirements of Pub. L. 95–452, section 5.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used in disclosing information—

a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government having an interest in the individual for employment purposes, including a security clearance or access determination, and the need to evaluate qualifications, suitability, and loyalty to the United States Government.

b. To designated officers and employees of agencies, offices, and judicial branches of the Federal Government when such agency, office, or establishment conducts an investigation of the individual for granting a security clearance, or for making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.

c. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

d. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order when OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency, to a court or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may disclose if a subpoena has been signed by a judge.

g. To provide information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity, where the Department of Justice or OPM has agreed to represent the employee, or

(4) The United States, where OPM determines that litigation is likely to affect OPM or any of its components; is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation, provided, however, that the disclosure is compatible with the purposes for which the records were collected.

h. To the National Archives and Records Administration for records management inspections.

i. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

j. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions; e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment programs, or other functions vested in the Commission.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on index cards, on microfilm, or disks.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, Social Security Number, employee number, case file number, or other unique identifying number, or by a combination of such identifiers.

SAFEGUARDS:

Records are maintained in file cabinets secured by combination locks, secured microfilm storage cabinets, and in computers with access limited to only certain employees through the use of individual identifiers and passwords.

RETENTION AND DISPOSAL:

Case files are retained while the person is under investigation and for 10 years after final disposition of the case or any litigation of the matter is completed.

SYSTEM MANAGER AND ADDRESS:

Inspector General, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to learn whether this system contains information about them should contact the system manager. So that the record can be located and identified, the requester must furnish the following information:

a. Full name.

b. Date of birth and Social Security Number.

c. Signature.

d. Any additional information (e.g., type of investigation conducted, employee number or annuitant CSR number) that the requester believes might be helpful.

RECORD ACCESS PROCEDURE:

Specific records in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d) regarding access to records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of records exempted. Individuals wishing to request access to any records pertaining to them should contact the system manager. Requesters must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth and Social Security Number.

c. Signature.

d. Any additional information (e.g., type of investigation conducted, employee number or annuitant CSR number) that the requester believes may be helpful.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific records in this system have been exempted from the Privacy Act provisions at 5 U.S.C. 552a(d) regarding amendment of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of records exempted. Individuals seeking to amend their records should contact the system manager. Requesters must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth and Social Security Number.

c. Signature.

d. Any additional information (e.g., type of investigation conducted, or employee number or annuitant CSR number) that the requester believes may be helpful.

Individuals requesting amendment must also comply with OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system is obtained from:

a. The individual who is the subject of the case file.

b. The individual's supervisor and co-workers.

c. Other Federal and non-Federal sources who have information relevant to the case.

d. Official records of OPM or another Federal agency.

e. Non-Government record sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OPM has claimed exemptions from the access (including access to an accounting of disclosure) and amendment provisions of the Privacy Act (5 U.S.C. 552a(c)(3) and (d)) for several of its other systems of records under 5 U.S.C. 552a(k)(1), (2), (3), (4), (5), (6), and (7). During the course of developing a case file covered under this system, copies of the exempt records from these other systems may

become part of the file. To the extent that this occurs, OPM has claimed the same exemptions for these copies as they have for the original documents. Additionally, information within the scope of these exemptions may be developed by the Inspector General's staff during an investigation. These same exemptions are claimed for this developed information when the information is—

a. Properly classified information, obtained from another Federal agency during the course of an investigation which pertains to national defense and foreign policy. 5 U.S.C. 552a(k)(1) permits an agency to exempt such material from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection with the administration of the merit system.

5 U.S.C. 552a(k)(2) permits an agency to exempt such material from certain provisions of the Act.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. 5 U.S.C. 552a(k)(3) permits an agency to exempt such material from certain provisions of the Act.

d. Investigatory material that is required by statute to be maintained and used solely as a statistical record. 5 U.S.C. 552a(k)(4) permits an agency to exempt such material from certain provisions of the Act.

e. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civil service employment. 5 U.S.C. 552a(k)(5) permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

f. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. 5 U.S.C. 552a(k)(6) permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

g. Evaluation materials, compiled during the course of a personnel investigation, that are used solely to determine potential for promotion in the armed services. 5 U.S.C. 552a(k)(7) permits an agency to exempt such evaluation material to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

OPM/CENTRAL–5

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415. Courtesy copies of mobility assignment agreements may be sent to OPM regional offices for information purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have completed or are presently on an assignment in a State or local government agency, an educational institution, or in Indian tribal government, or other organizations under the provisions of the Intergovernmental Personnel Act (IPA).

b. Current or former State or local government or educational institution employees, employees of Indian tribal governments, or other organizations who have completed or are presently on an assignment in a Federal agency under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the individual's IPA assignment agreement between a Federal agency and a State or local government, educational institution, Indian tribal government, or other organization; biographical and background information about the assignees; and records of interviews with assignees which may be conducted after the IPA assignment has been completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 337–3376, and E.O. 11589.

PURPOSE:

These records are maintained to document and track mobility assignments (including extensions, modifications, and terminations thereof) made under the Intergovernmental Personnel Act. Internally, OPM may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

e. By the National Archives and Records Administration in records management inspections.

f. By OPM to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force

studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an OPM decision regarding possible termination of an assignment.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards, in file folders, and on magnetic tape and floppy disks.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access. Confidential passwords are required for access to automated records.

RETENTION AND DISPOSAL:

Records are retained for 5 years from the signing of the agreement. Manual records are destroyed by shredding. Tapes and diskettes are erased.

SYSTEM MANAGER AND ADDRESS:

Director, Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Federal agency involved in the assignment.

c. Non-Federal organization involved in the assignment.

d. Date of each assignment.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Federal agency involved in the assignment.

c. Non-Federal organization involved in the assignment.

d. Date of each assignment.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals seeking to amend their records should contact the system manager. Requesters must furnish the following information for their records to be located and identified:

a. Full name.

b. Federal agency involved in the assignment.

c. Non-Federal organization involved in the assignment.

d. Date of each assignment.

Individuals requesting amendment of their records must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in these records is obtained from:

a. The individual subject of the records.

b. Officials in the agencies, educational institutions, Indian tribal governments or other organizations where the individual is employed and where the individual is serving on the IPA assignment.

c. Agency personnel files and records.

OPM/CENTRAL–6

SYSTEM NAME:

Administrative Law Judge Application Records.

SYSTEM LOCATION:

Assistant Director, Office of Administrative Law Judges, Career Entry Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Administrative Law Judge positions in the Federal service or who are employees or former employees in Administrative Law Judge positions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information on the education and training, employment history and earnings, appraisals of past performance, convictions for offenses against the law, results of written tests, appraisals of potential, rating and ranking determinations and appeals of such determinations, honors, awards, or fellowships, and other background and biographical data on persons who are or were applicants for Administrative Law Judge positions in the Federal service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 1305, 3105, and 3344.

PURPOSE:

These records serve as a basis for rating and ranking applicants for Administrative Law Judge positions in the Federal service, documenting the rating and ranking assigned, processing an appeal of a rating or ranking determination, and referring the ranked candidates to Federal agencies for employment consideration. OPM may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants to Federal agencies for employment consideration for Administrative Law Judge positions.

b. To refer current and former Administrative Law Judges to Federal agencies for consideration for detail, transfer, reassignment, reinstatement, or reemployment, as applicable.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source (e.g., references, employers, educational institutions or applicant/appellant review panel members) from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), when necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

g. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

h. By the National Archives and Records Administration in records management inspections.

i. By OPM in the production of summary descriptive statistics and analytical studies to support the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances, the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

k. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations of alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of U.S.C. 7201.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer disks, cards, lists, forms, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained for 7 years. Expired records are shredded or burned.

SYSTEM MANAGER AND ADDRESS:

Assistant Director, Office of Administrative Law Judges, Career Entry Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social security number.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act requirements at 5 U.S.C. 552a (c)(3) and (d), regarding access to records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to non-exempt records about them should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social Security Number.

c. Date of application for examination.

An individual requesting access must also follow OPM's Privacy Act regulations on verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act requirements regarding amendment of records at 5 U.S.C. 552a(d). The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of non-exempt records should contact the system manager indicated. Individuals must furnish the following information for their records to be located and identified.

a. Full name and date of birth.

b. Social Security Number.

c. Date of application for examination.

An individual requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information he or she supplied, except for information on vouchers or otherwise provided that is:

a. Supplied by references, employers, or educational institutions listed by the applicant; or

b. Supplied by references, employers, or educational institutions listed by the appellant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(5) is exempt from the requirement of 5 U.S.C. 552a (c)(3) and (d) concerning accounting of disclosures, and access to or amendment of records. The exemptions are claimed because this system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. To the extent that the release of such material would reveal the identity of a source who furnished information to the government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

All information in these records that meets the criteria stated in 5 U.S.C. 552a(k)(6) is exempt from the requirement of 5 U.S.C. 552a(d) concerning access to or amendment of records. This exemption is claimed because portions of this system relate to testing and examining materials used solely to determine individual qualifications for appointment or promotion in the Federal service. Access to or amendment of this information by the data subject would compromise the objectivity and fairness of the testing or examining process.

OPM/CENTRAL–7

SYSTEM NAME:

Litigation and Claims Records.

SECURITY CLASSIFICATION:

No security classification is assigned to the system as a whole; however, items of record within the system may bear a national defense/foreign policy classification of Confidential or Secret.

SYSTEM LOCATION:

Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who make claims under the Military Personnel and Civilian Employees Claims Act of 1964, as amended.

b. Individuals who file civil actions, administrative claims or appeals, or other actions against or concerning OPM, its officials, and employees.

c. Individuals who are parties to actions in which the Government is involved, but in which OPM's role is advisory to another agency.

d. Individuals who filed claims with OPM under the Federal Tort Claims Act, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following kinds of records: Administrative appeals; investigative reports; retirement records; official personnel records; documentation of litigation including complaints, answers, motions, briefs, orders, and decisions; claims and supporting documentation submitted under the Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act, together with correspondence and records of settlement; and final administrative and judicial determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 301; 5 U.S.C. 1103; 5 U.S.C. 1301–1308; 28 U.S.C. 522; 28 U.S.C. 2672; 31 U.S.C. 3721; and Executive Order 10577.

PURPOSE:

These records are maintained to defend OPM against lawsuits and to settle administrative claims brought against OPM.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information:

a. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To any source where necessary to obtain information relevant to an OPM decision or action involved in one of the purposes for maintenance of the system.

c. To a Federal agency, in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

f. To the National Archives and Records Administration for records management inspections.

g. By OPM in the production of summary descriptive statistical and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To the insurance carrier of an employee, or a claimant against OPM under the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act in order to determine the proper assignment of any liability.

i. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

j. To officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To the Equal Employment Opportunity Commission when

requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

l. To the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained, by case name, by civil action number, or other case number.

SAFEGUARDS:

Records are maintained in a locked file cabinet with limited access only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for 7 years after the final disposition or resolution of the litigation or claim. The records are destroyed by shredding or burning after the seven-year retention period.

SYSTEM MANAGER AND ADDRESS:

Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains a record about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled Systems Exempted from Certain Provisions of the Act, indicates the kinds of materials exempted and the reasons for exempting them from access.

Individuals who wish to obtain access to their records must contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act, indicate the kinds of materials exempted and the reasons for exempting them from amendment.

Review of requests from individuals seeking amendment of their records which have previously been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual on whom the record is maintained.
b. Agency officials and records.
c. Records of administrative and court proceedings including statements of witnesses and documents.
d. Law enforcement agencies.
e. Witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

When litigation or claim cases occur, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material for which exemptions have been claimed by OPM under the Privacy Act. To the extent that such exempt material is incorporated into a litigation or claim file, the appropriate exemption 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6) or (7) shall also apply to the material as it appears in this system. The exemptions will be only from those provisions of the Act that were claimed for the systems from which the records originated.

The Office of the General Counsel, pursuant to 5 U.S.C. 552a (d)(5), reserves the right to refuse access to information compiled in reasonable anticipation of civil action or proceeding.

This system may contain the following types of information:

a. Properly classified information, obtained from another Federal agency during the course of an investigation which pertains to national defense and foreign policy. 5 U.S.C. 552a(k)(1) permits an agency to exempt such material from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection with the administration of the merit system. 5 U.S.C. 552a(k)(2) permits an agency to exempt such material from certain provisions of the Act.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. 5 U.S.C. 552a(k)(3) permits an agency to exempt such material from certain provisions of the Act.

d. Investigatory material that is required by statute to be maintained and used solely as a statistical record. 5 U.S.C. 552a(k)(4) permits an agency to exempt such material from certain provisions of the Act.

e. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civil service employment. 5 U.S.C. 552a(k)(5) permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to 9/27/75, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

f. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. 5 U.S.C. 552a(k)(6) permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

g. Evaluation materials, compiled during the course of a personnel investigation, that are used solely to determine potential for promotion in the armed services. 5 U.S.C. 552a(k)(7) permits an agency to exempt such evaluation material to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

OPM/CENTRAL–8

SYSTEM NAME:

Privacy Act/Freedom of Information Act (PA/FOIA) Case Records.

SYSTEM LOCATION:

Offices of the Office of Personnel Management, 1900 E Street NW., Washington, DC 20415, and OPM regional and area offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with OPM:

a. Requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests.

b. Requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves, including:

(1) Requests for notification of the existence of records about them.

(2) Requests for access to these records.

(3) Requests for amendment of these records.

(4) Requests for review of initial denials of such requests for notification, access, and amendment.

(5) Requests for an accounting of disclosure of records about them.

Note: Since these PA/FOIA case records contain inquiries and requests regarding any of OPM's other systems of records subject to the Privacy Act, information about individuals from any of these other systems may become part of this PA/FOIA Case Records system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by individuals to OPM for:

a. Information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests.

b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under OPM's Privacy Act regulations including requests for:

(1) Notification of the existence of records about them.

(2) Access to records about them.

(3) Amendment of records about them.

(4) Review of initial denials of such requests for notification, access, or amendment.

(5) Requests for an accounting of disclosure of records about them.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

The Privacy Act of 1974 (5 U.S.C. 552a), the Freedom of Information Act, as amended (5 U.S.C. 552), and 5 U.S.C. 301.

PURPOSE:

These records are maintained to process an individual's request made under the provisions of the Freedom of Information and Privacy Acts. The records are also used by OPM to prepare its reports to OMB and Congress required by the Privacy and Freedom of Information Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

d. By the National Archives and Records Administration in records management inspections.

e. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To disclose information to an agency, subject to law, rule, or regulation enforced by OPM having been found in violation of such law, rule, or regulation, in order to achieve compliance with OPM instructions.

g. To disclose information to Federal agencies (e.g., Department of Justice) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence, for use by OPM in making required determinations under the Freedom of Information Act or the Privacy Act of 1974.

h. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), where necessary to obtain information relevant to an OPM decision concerning a Privacy or Freedom of Information Act request.

i. To disclose to the Federal agency involved, an OPM decision on an appeal from an initial denial of a request involving OPM-controlled records.

j. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or

OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules, and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

m. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination complaints in the Federal sector, examination of Federal Affirmative Employment Programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

n. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on machine-readable magnetic media and/or as paper copy in file folders or binders, or on index cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and year of the request.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

These records will be disposed of 5 years after the date of final OPM action on the case. Records are destroyed by shredding, burning, or the equivalent.

SYSTEM MANAGERS AND ADDRESSES:

The appropriate Associate or Assistant Director, the General Counsel, appropriate Regional Director, Office of Personnel Management, is system manager for Privacy Act/Freedom of Information Act Case records maintained in that office. Associate and Assistant Director's offices and the Office of the General Counsel are located at: Office of Personnel Management, 1900 E Street NW., Washington DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act requests were sent, or from where they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

RECORD ACCESS PROCEDURE:

Material from other OPM systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act explains the exemptions for this system.

Individuals wishing to request access to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Material from other OPM systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act explains the exemptions for this system. Individuals wishing to request amendment to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act requests were sent or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Appropriate dates of Privacy Act or Freedom of Information Act correspondence between OPM and the individual.

Individuals requesting amendment must also comply with OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

Note: The amendment provisions of this system are not intended to permit an individual a second opportunity to request amendment of a record which was the subject of the initial Privacy Act amendment request which created the record in this system. That is, after an individual has requested amendment of a specific record in an OPM system under provisions of the Privacy Act, that specific record may itself become part of this system of PA/FOIA Case Records. An individual may not subsequently request amendment of that specific record again, simply because a copy of the record has become part of this second system of PA/FOIA Case Records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OPM has claimed exemptions for several of its other systems of records under 5 U.S.C. 552a (k) (1), (2), (3), (4), (5), (6), and (7). During the course of a PA/FOIA action, exempt materials from those other systems may become part of the case records in this system. To the extent that copies of exempt records from those other systems are entered into these PA/FOIA case records, the office has claimed the same exemptions for the records as they have in the original primary systems of records which they are a part.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from—

a. The individual to whom the information applies.

b. Officials of OPM.

c. Official documents of OPM.

OPM/CENTRAL–9

SYSTEM NAME:

Personnel Investigations Records.

SECURITY CLASSIFICATION:

None for the system. However, items or records within the system may have national security/foreign policy classifications up through Secret.

SYSTEM LOCATION:

a. *Privacy system:* Investigations Group, Office of Personnel Management, Washington, DC 20415; Federal Investigations Processing Center, PO Box 618, Boyers, PA 16018–0618; and the Federal Records Center, Suitland, Maryland.

b. *Decentralized segments:* Copies of these records may exist temporarily in agencies on current employees, former employees, or on contractor employees. These copies may be located in the personnel security office or other designated offices responsible for suitability, security clearance, access, or hiring determination on an individual. ("Agency" as used throughout this system is deemed to include Legislative and Judicial branch establishments as well as those in the Executive Branch).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former employees or applicants for employment in the Federal service, including agency offices or establishments in the executive, legislative, and judicial branches, and in the Government of the District of Columbia or annuitant survivors.

b. American citizens who are current or former employees or applicants for employment with International Organizations.

c. Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, contractor employees, experts, instructors, and consultants to Federal programs.

d. Individuals considered for assignments as representatives of the Federal Government in volunteer programs.

e. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in Federal programs under a co-operative assignment or under a similar agreement.

f. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in matters related to the administration of the merit system.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for violations against the law; reports of interviews with the subject of the investigation and with the present and former supervisors, co-workers, associates, educators, etc.; reports about the qualifications of an individual for a specific position and correspondence relating to adjudication matters; reports of inquiries with law enforcement agencies, employers, educational institutions attended; reports of action after OPM or FBI Section 8(d) Full Field Investigation; and other information developed from the above.

Note—This system does not include those agency records of a personnel investigative nature that do not come to OPM.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authorities for maintenance of the system include the following with any revisions or amendments:

a. Section 2, Civil Service Act of 1883—original authority.

b. Title 5, U.S.C., sections 1303, 1304, 3301, and 7701;

c. Title 22, U.S.C., sections 1434, 2519, and 2585;

d. Title 32, U.S.C., section 686; 42 U.S.C. sections 1874(c), 2165, and 2455.

e. Public Laws 82–298 and 92–261.

f. Executive Orders 9397, 10422, as amended; 10450, sections 7, 8(b), 8(c), and 14; and 10577.

g. OMB Circular No. A–130.

h. In addition to the authorities cited, there are various acts of Congress that contain implied authority for OPM to investigate, such as laws prohibiting the purchase and sale of office, holding of two offices, conspiracy and other prohibitory statutes.

PURPOSE:

a. To provide investigatory information for determinations concerning compliance with Federal personnel regulations and for individual personnel determinations including suitability and fitness for Federal employment, access and security clearances, evaluations of qualifications, loyalty to the United States, and evaluations of qualifications for performance of contractual services for the U.S. Government.

b. To document such determinations.

c. To provide information necessary for the scheduling and conduct of the required investigations.

d. To otherwise comply with mandates and Executive Orders.

e. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used in disclosing information:

a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, having a need to evaluate qualifications, suitability, and loyalty to the United States Government and/or a security clearance or access determination.

b. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, when such agency, office, or establishment conducts an investigation of the individual for purposes of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.

c. To designated officers and employees of agencies, offices, and other establishments in the executive, judicial, or legislative branches of the Federal Government, having the responsibility to grant clearances to make a determination regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

d. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.

e. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

f. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where OPM becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To an agency, office, or other establishment in the executive, legislative, or judicial branches of the Federal Government, in response to its request, in connection with the hiring or

retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

h. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identities, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

j. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

k. To the National Archives and Records Administration for records management inspections.

l. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

m. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

n. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

o. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discriminatory practices in the Federal sector, examination of Federal affirmative employment program, or other functions vested in the Commission.

p. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

q. To disclose information to contractors or volunteers performing or working on a contract, service, or job for the Federal Government.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, in a computerized electronic database, and on microfilm.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, and Social Security Number of the individual on whom they are maintained.

SAFEGUARDS:

Folders and microfilm are maintained and secured with manipulation proof combination locks and intrusion alarm systems; or in metal file cabinets secured by three position combination lock. The index to the system and those records which are maintained on the computer database are in a limited access room with a keyless cipher lock. All employees are required to have an appropriate security clearance before they are allowed access to the records.

RETENTION AND DISPOSAL:

a. Investigative files (if any) and the computerized data base which shows the scheduling or completion of an investigation are retained for 15 years, plus the current year from the date of the most recent investigative activity, except for investigations involving potentially actionable issue(s) which will be maintained for 25 years plus the current year from the date of the most recent investigative activity.

b. Hard copy records are destroyed by burning and computerized records are destroyed by electronic erasure.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Federal Investigations, Investigations Group, Office of Personnel Management, 1900 E Street NW., Washington DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to learn whether this system contains information about them should contact the FOI/P, OPM—Federal Investigations Processing Center, PO Box 618, Boyers, PA 16018–0618, in writing.

Individuals must furnish the following for their records to be located and identified:

a. Full name.

b. Date and place of birth.

c. Social Security Number.

d. Signature.

e. Any available information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

g. The address to which the record information should be sent.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding accounting of disclosures, and access to and amendment of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of material exempted and the reasons for exempting them from access.

Individuals wishing to request access to their records should contact the Federal Investigations Processing Center in writing. Requests should be directed only to the Federal Investigations Processing Center whether the record sought is in the primary system or in an agency's decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date and place of birth.

c. Social Security Number.

d. Signature.

e. Any available information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

g. The address to which the record information should be sent.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to and amendment of records. The section of this notice titled Systems Exempted from Certain Provisions of the Act indicates the kinds of material exempted and the reasons for exempting them from amendment.

Individuals wishing to request amendment to their non-exempt records should contact the Federal Investigations Processing Center in writing. Requests should be directed only to the Federal Investigations Processing Center, whether the record sought is in the primary system or in agency's decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date and place of birth.

c. Social Security Number.

d. Signature.

e. Any information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

Individuals requesting amendment must also comply with OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

Note—Where an agency retains the decentralized copy of the investigative report provided by OPM, requests for access to or amendment of such reports will be forwarded to the Federal Investigations Processing Center for processing.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from:

a. Applications and other personnel and security forms and personal interview furnished by the individual.

b. Investigative and other record material furnished by Federal agencies.

c. Notices of personnel actions furnished by Federal agencies.

d. By personal investigation, written inquiry, or computer linkage from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureau, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

OPM has claimed that all information in these records that meets the criteria stated in 5 U.S.C. 552a(k) (1), (2), (3), (4), (5), (6), or (7) is exempt from the requirements of the Privacy Act that relate to providing an accounting of disclosures to the data subject, and access to and amendment of records (5 U.S.C. 552 (c)(3) and (d)). This system may contain the following types of information:

a. Properly classified information, obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy. 5 U.S.C. 552a(k)(1) permits an agency to exempt such materials from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes other than material within the scope of this subsection. 5 U.S.C. 552a(k)(2) permits an agency to exempt such material from certain provisions of the Act.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the U. S. Code. 5 U.S.C. 552a(k)(3) permits an agency to exempt such material from certain provisions of the Act.

d. Investigatory material that is required by statute to be maintained and used solely as a statistical record. 5 U.S.C. 552a(k)(4) permits an agency to exempt such material from certain provisions of the Act.

e. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment and Federal contact or access to classified information. 5 U.S.C. 552a(k)(5) permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

f. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. 5 U.S.C. 552a(k)(6) permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

g. Evaluation materials, compiled during the course of a personnel investigation, that are used solely to determine potential for promotion in the armed services. 5 U.S.C. 552a(k)(7) permits an agency to exempt such evaluation material to the extent that the disclosure of the data would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

OPM/CENTRAL–10

SYSTEM NAME:

Directory of Federal Executive Institute Alumni.

SYSTEM LOCATION:

Federal Executive Institute, Office of Personnel Management, 1301 Emmet Street, Charlottesville, Virginia 22901.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Federal, State, and local government employees (both current and former), international executives, former faculty and staff, and Fellowship students who have attended long term programs at the Federal Executive Institute (FEI).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the name, position title, office address and telephone number, agency FEI program attended, and, with the approval of the individual, home address and telephone number of alumni of FEI programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 301 and 4117.

PURPOSE:

The Directory is used by FEI alumni to maintain contact with other alumni and to provide them with information to continue their educational experiences. Copies of the Directory are made available to FEI alumni to allow them to maintain relationships developed at the Institute in order to continue educational experiences and to promote intergovernmental cooperation. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Federal agencies to assist them in planning for executive development programs.

b. To provide information to a congressional office from the records of an individual in response to an inquiry from the congressional office made at the request of that individual.

c. To provide information to the FEI Alumni Association for the purpose of mailing association materials to an alumni's home or business address.

d. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where OPM becomes aware of a violation or potential violation of civil or criminal law or regulation.

e. By the National Archives and Records Administration in records management inspections.

f. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

g. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

h. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair practices or matters before the Federal Service Impasses Panel.

i. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

j. By OPM in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

k. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

l. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In addition to its appearance in the Directory, information will be maintained on FEI mailing lists, or forms used to collect the data, and on automated media.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained. Records may also be retrieved by agency, location, and FEI program.

SAFEGUARDS:

Records kept by FEI officials are maintained in a secured area with access limited to those authorized personnel at FEI whose duties require access. Because home addresses and telephone numbers are included in the Directory, distribution of the Directory is limited to FEI alumni, and the listed routine users. Those users are notified by a notice placed in the Directory not to make it available for commercial purposes. In addition:

a. At the request of the individual, his or her home address and telephone number will not be included in the Directory;

b. At the request of the employing agency, information relating to the individual's status (i.e., position title) will be excluded from the Directory.

RETENTION AND DISPOSAL:

Obsolete information will be deleted from automated records.

SYSTEM MANAGER AND ADDRESS:

Registrar, Federal Executive Institute, Office of Personnel Management, 1301 Emmet Street, Charlottesville, Virginia 22901.

NOTIFICATION PROCEDURE:

All individuals included in the system receive a copy of the Directory. Individuals requiring additional information about their inclusion in the system should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program attended and dates.

RECORD ACCESS PROCEDURE:

All record information in the system is included in the Directory. Individuals wishing to request access to other forms in the system which contain the same information should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program attended and dates.

Individuals requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program attended and dates.

Individuals requesting amendment must follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

All information in the system comes from the individuals to whom the records pertain.

OPM/CENTRAL–11

SYSTEM NAME:

Presidential Management Intern Program Records.

SYSTEM LOCATION:

Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former interns and students pursuing graduate degrees in public management who have been nominated by their universities for consideration under the Presidential Management Intern (PMI) Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the covered individuals relating to name, Social Security Number, date of birth, race/national origin, academic background, home address, home telephone number, employment history, veteran preference, and other personal history information needed during the evaluation and selection process. This system will also contain evaluation statements from the nominating universities and confidential information developed during the regional screening process and final panel evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

Executive Order 12364.

PURPOSE:

There records are used by program personnel for the following reasons:

a. To determine basic program eligibility and to evaluate the nominees in a regional screening process conducted by OPM regional officials with the participation of agency managers, and State and local government representatives.

b. To group the nominees into various categories (finalists, alternatives, and non-selectees) and make a final determination as to those candidates who will be referred to the agencies for employment consideration.

c. For program evaluation functions to determine the effectiveness of the program and to improve program operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer candidates to Federal agencies for employment consideration.

b. To refer candidates to State and local governments, congressional offices, international organizations, and other public offices with permission of the candidates, for the purpose of employment consideration.

c. To refer interns for consideration for reassignment and promotion within the employing agencies.

d. As a data source for management information of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel research functions or manpower studies, or to locate individuals for personnel research.

e. To refer pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

f. To request information from a Federal, State, or local agency maintaining civil, criminal, or other information relevant to an agency decision concerning the hiring or retention of a candidate.

g. To provide an educational institution with information on an appointment of a recent graduate to a Federal position at a certain grade level.

h. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. To disclose information to another Federal agency, to a Court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

j. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

k. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on forms, lists, punched cards, magnetic tape, and floppy disks.

RETRIEVABILITY:

Records are indexed by name of nominee, schools, state of legal residence, Social Security Number, and any combination of these.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets and in a computerized system accessible to only those program managers whose official duties necessitate such access. Confidential passwords are required for access to these automated records.

RETENTION AND DISPOSAL:

Automated records are retained for up to five years. Manual records are retained for up to three years. Tapes are erased and manual records are burned or shredded.

SYSTEM MANAGER AND ADDRESS:

Director, Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address
c. Nominating university.

RECORD ACCESS PROCEDURE:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to and amendment of records. The section of the notice titled Systems Exempted From Certain Provisions of the Act indicates the kinds of materials exempted and the reasons for exempting them from access.

Current or former Presidential Management Interns or nominees who wish to gain access to their non-exempt records should direct such a request in writing to the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating university.

Individuals must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Specific material in this system has been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to and amendment of records. The section of the notice titled Systems Exempted From Certain Provisions of the Act indicates the kinds of materials exempted and the reasons for exempting them from amendment.

Current or former Presidential Management Interns or nominees wishing to request amendment of their non-exempt records should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating university.

Individuals must also comply with OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual to whom it applies.
b. Nominating university deans, Federal, State, and local officials involved in the screening and selection process.
c. Employing agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. OPM has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records, for any such testing or examination materials in the system.

OPM/CENTRAL–12

[Reserved].

OPM/CENTRAL–13

SYSTEM NAME:

Executive Personnel Records.

SYSTEM LOCATION:

Office of Executive and Management Policy, Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former appointees in the Senior Executive Service; current and former incumbents of Executive Level, Scientific and Professional positions in research and development and similar positions; former incumbents of General Schedule 16–18 positions; and participants in and graduates of OPM-approved agency Senior Executive candidate development programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic, appointment, and assignment information (e.g., name, home address, date of birth, Social Security Number, race and ethnic designation, title of position, pay rate, and type of appointment).

b. Background data on work experience, educational experience, publications or awards (includes performance ratings and any performance, rank, or incentive awards received), and career interests.

c. Determinations on nominees for Meritorious and Distinguished Executive ranks.

d. Determinations concerning executive (managerial) qualifications (i.e., Qualification Review Board records).

e. Information on performance of SES members (e.g., performance ratings, performance awards, and incentive awards).

f. Information relating to participants (current and former) in the sabbatical leave program (e.g., dates of participation and reasons for the leave).

g. Applications from individuals who, within the 90-day period provided for under 5 U.S.C. 3593(b), seek reemployment in the Senior Executive Service.

h. Information concerning the reason(s) why an individual leaves the SES (e.g., to enter private industry, to work for a State government, or removed during probation or after, because of performance).

i. Information about the recruitment of individuals for SES positions (e.g., recruited from another Federal agency or from outside the Federal service).

Note: Automated and manual duplicates of records in this system, maintained by agencies for purposes of actual administration of the SES, along with other records agencies have on Federal executives, are not considered part of this system. Such records are considered general personnel records and are covered by the OPM/GOVT–1, General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM INCLUDES THE FOLLOWING WITH ANY REVISIONS AND AMENDMENTS:

5 U.S.C. 2101a; 3131 through 3136; 3391 through 3397; 3591 through 3595; 4311 through 4315; 5407; 5381 through 5385; 5752; and 7541 through 7543.

PURPOSE:

The records are used to:

a. Assist OPM in carrying out its responsibilities under title 5, U.S. Code, and OPM rules and regulations promulgated thereunder, including the establishment of SES positions by agencies, development of qualification standards for SES positions, establishment and operation of one or

more qualifications review boards, establishment of programs to develop candidates for and incumbents of the SES, and development of performance appraisal systems.

b. Pursuant to section 415 of the Civil Service Reform Act, assist OPM in meeting its mandate to evaluate the effectiveness of the SES and the manner in which the Service is administered.

c. Provide data used in policy formulation, program planning research studies, and required reports regarding the Governmentwide SES program.

d. Locate specified groups of individuals for personnel research (while protecting their individual privacy). Race and ethnic data and performance ratings are collected for statistical use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current or former Federal employees to Federal agencies for vacancies in the SES.

b. To refer qualified current or former Federal employees or retirees to State and local governments and international organizations for employment considerations.

c. To provide an employing agency with extracts from the records of that agency's employees in the system.

d. To provide information required in the annual report to Congress mandated by 5 U.S.C. 3135 and elsewhere, regarding positions in the SES and the incumbents of these positions.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

f. By OPM to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the National Archives and Records Administration for records management inspections.

i. To disclose information to another Federal agency, to a court, or a party in litigation before a court or in an administrative proceeding being conducted by a Federal agency, when the Government is a party to the judicial or administrative proceeding. In those cases where the Government is not a party to the proceeding, records may be disclosed if a subpoena has been signed by a judge.

j. To disclose information to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which OPM is authorized to appear, when:

(1) OPM, or any component thereof; or

(2) Any employee of OPM in his or her official capacity; or

(3) Any employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee; or

(4) The United States, when OPM determines that litigation is likely to affect OPM or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or OPM is deemed by OPM to be relevant and necessary to the litigation provided, however, that the disclosure is compatible with the purpose for which records were collected.

k. To disclose information to officials of the Merit Systems Protection Board or the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of OPM rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

n. To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.

o. To provide information to the White House on executives with noncareer appointments in the Senior Executive Service, in positions formerly in the General Schedule filled by noncareer executive assignments, in excepted positions paid at Executive Schedule pay rates, and in positions in the Senior Level pay system or other pay systems equivalent to those described which are filled by Presidential appointment or excepted from the competitive service because they are of a confidential or policy-determining character.

p. To disclose information to a Federal agency, in response to its requests, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

q. To disclose information to contractors, grantees, or volunteers performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on magnetic disk and tape, punched cards, and microfiche.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individual to whom they pertain.

SAFEGUARDS:

Manual records are maintained in lockable metal filing cabinets or in

secured rooms with access limited to those whose official duties require access. Access to computerized records is limited to those whose official duties require access. Access to race and ethnic data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual remains in a covered position and for 5 years after they leave Federal service.

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Executive and Management Policy, Human Resources Development Group, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system or records contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about themselves should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual named in the record.

b. His or her employing agency.

c. Official documents of OPM.

[FR Doc. 93–8325 Filed 4–9–93; 8:45 am]

BILLING CODE 6325–01–U

Reader Aids

Federal Register

Vol. 58, No. 68

Monday, April 12, 1993

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202–523–5227
Public inspection desk	523–5215
Corrections to published documents	523–5237
Document drafting information	523–3187
Machine readable documents	523–3447

Code of Federal Regulations

Index, finding aids & general information	523–5227
Printing schedules	523–3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523–6641
Additional information	523–5230

Presidential Documents

Executive orders and proclamations	523–5230
Public Papers of the Presidents	523–5230
Weekly Compilation of Presidential Documents	523–5230

The United States Government Manual

General information	523–5230

Other Services

Data base and machine readable specifications	523–3447
Electronic Bulletin Board	275–1538, 275–0920
Guide to Record Retention Requirements	523–3187
Legal staff	523–4534
Privacy Act Compilation	523–3187
Public Laws Update Service (PLUS)	523–6641
TDD for the hearing impaired	523–5229

FEDERAL REGISTER PAGES AND DATES, APRIL

17081–17320.....1
17321–17490.....2
17491–17772.....5
17773–17942.....6
17943–18138.....7
18139–18336.....8
18337–19032.....9
19033–19192.....12

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12842.....17081
July 2, 1910
(Revoked in part by PLO 6961).....18018
Proclamation:
6540.....17773
Administrative Orders:
Determinations:
No. 92–18 of February 28, 1992
(See No. 93–18 of March 31, 1993).....19033
No. 93–18 of March 31, 1993.....19033

5 CFR

330.....18139
335.....18139
870.....18142
890.....18142

7 CFR

16.....18143
110.....19014
400.....17943, 17944
1001.....17946
1002.....17946
1011.....17947
1413.....18304
Proposed Rules:
1413.....17807
1785.....18043
1786.....18043

9 CFR

Proposed Rules:
94.....17462

10 CFR

2.....17321
72.....17948
Proposed Rules:
50.....18167
20.....18049

11 CFR

110.....17967

12 CFR

226.....17083
748.....17491
791.....17492
960.....17968
1627.....18144
Proposed Rules:
327.....17533
701.....17808

14 CFR

11.....18138
23.....18958
39.....17972, 18337, 18338 18340, 18341, 18342, 19049
71.....17322, 17494, 18344
73.....17323, 18345
97.....17324, 17325
Proposed Rules:
39.....18051, 18053, 18347, 19068, 19069, 19071, 19073
71.....17541, 17543, 18054, 18055, 18349, 19152
73.....18351

15 CFR

946.....18315

16 CFR

Proposed Rules:
305.....18056

17 CFR

1.....17495
30.....17495
33.....17495
150.....17973
180.....17495
190.....17495
200.....17327
202.....17327
229.....17327
230.....17327, 18145
239.....17327, 19050
240.....17327, 18145
249.....17327
250.....17327
259.....17327
270.....17327, 19050
274.....17327, 19050
Proposed Rules:
12.....17369
150.....18057
200.....18352
270.....18352

18 CFR

101.....17982
201.....17982
Proposed Rules:
Ch. I.....18185
141.....17544
401.....18352
1301.....17553

19 CFR

10.....18146

21 CFR

Ch. I.....17085
1.....17085, 17328
5.....17091, 17093, 17094, 17095, 17096, 17105, 17105, 17341, 18346

12.....17095
14.....17095
20.....17096, 17097
73.....17506, 17508
74.....17098, 17510
100.....17096, 17097
101.....17085, 17096, 17097, 17099, 17100, 17101, 17102, 17103, 17104, 17328, 17341, 17343
102.....17102, 17103
104.....17104
105.....17096, 17104
130.....17103, 17105
131.....17105
133.....17105
135.....17103, 17105
136.....17103
137.....17103
139.....17103
145.....17103
146.....17103
150.....17103
152.....17103
155.....17103
156.....17103
158.....17103
160.....17103
161.....17103
163.....17103
164.....17103
166.....17103
168.....17103, 17105
169.....17103
172.....17098
177.....17098
178.....17098, 17512, 17512, 17513, 17514
186.....17098
189.....17098
520.....18304
522.....18304
529.....17346
558.....17515, 17516, 17346
579.....18147
1308.....17106

Proposed Rules:

100.....17171
101.....17171, 18057
102.....17171
135.....17172
161.....17171
330.....17553
358.....17554

22 CFR

514.....18304

24 CFR

50.....17164
574.....17164
905.....17164
3500.....17165

Proposed Rules:

125.....17172
576.....17764

25 CFR

Proposed Rules:

518.....18353

26 CFR

1.....17166, 17775, 18148, 18448, 19060
301.....17516, 17517

Proposed Rules:

1.....17557
301.....18185

27 CFR

22.....19060
24.....19062

28 CFR

35.....17520
36.....17521

Proposed Rules:

36.....17558

29 CFR

1400.....18007

30 CFR

938.....18149

Proposed Rules:

935.....17173, 17372, 18185
944.....18187
950.....17811

33 CFR

20.....17926
100.....17525, 18008, 18009
151.....18329
162.....17525
165.....17525

Proposed Rules:

117.....18358
165.....17567, 18189, 19074
334.....17373, 17374

34 CFR

377.....17308

Proposed Rules:

685.....17472
698.....18307

36 CFR

242.....17776

Proposed Rules:

1191.....17175

37 CFR

202.....17778

39 CFR

Proposed Rules:

111.....18190, 19075

40 CFR

52.....17778, 17780, 18010, 18011, 18161, 19066
60.....18014
61.....18014
80.....19152
81.....17783
122.....18014
264.....18014
265.....18014
271.....18162
403.....18014
707.....18014

Proposed Rules:

Ch. I.....18062
52.....18190, 19075
80.....17175
82.....19080
86.....19087
112.....19030
238.....18062
260.....18197
261.....18197
262.....18197
264.....18197
265.....18197
268.....18197
270.....18197
273.....18197
300.....18197

41 CFR

Proposed Rules:

128–1.....18360

42 CFR

413.....17527

43 CFR

Public Land Order:

6961.....18018
6962.....18163

Proposed Rules:

3400.....18362

46 CFR

174.....17316
252.....17346

47 CFR

1.....17528
61.....17166, 17528
64.....17167
73.....17786, 17349
76.....17530, 17350
90.....17787

Proposed Rules:

2.....17180
61.....17813
73.....17816, 17817, 17818
80.....17180, 17568
87.....17568
90.....17819
94.....17568
97.....17180, 17375

48 CFR

215.....18448
252.....18448

Proposed Rules:

9903.....18363

49 CFR

1.....18018
228.....18163
240.....18982
523.....18019
525.....18019
533.....18019
537.....18019
552.....17787
821.....17531
826.....17531
1002.....17788
1017.....17788
1018.....17788
1312.....17788
1313.....17788
1314.....17788

Proposed Rules:

1039.....18072

50 CFR

17.....18029, 18035
100.....17776
216.....17789
217.....17364
227.....17364
301.....17791
611.....17462
658.....17169
672.....17806
675.....17366, 17367
685.....17462

Proposed Rules:

17.....17376, 18073
20.....19008
216.....17569
226.....17181
625.....18365
641.....19152
672.....17193, 17196, 17821
675.....17196, 17200, 17821, 19087

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 904/P.L. 103-13

To amend the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992 with respect to the establishment of the National Commission to Ensure a Strong Competitive Airline Industry. (Apr. 7, 1993; 107 Stat. 43; 2 pages)

Last List April 9, 1993

ELECTRONIC BULLETIN BOARD

Free **Electronic Bulletin Board** Service for Public Law Numbers is available on 202–275–1538 or 275–0920.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $775.00 domestic, $193.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, or Master Card). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at (202) 783–3238 from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to (202) 512-2233.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–019–00001–1)	$15.00	Jan. 1, 1993
3 (1991 Compilation and Parts 100 and 101)	(869–017–00002–7)	17.00	[1] Jan. 1, 1992
4	(869–019–00003–8)	5.50	Jan. 1, 1993
5 Parts:			
1–699	(869–017–00004–3)	18.00	Jan. 1, 1992
700–1199	(869–019–00005–4)	17.00	Jan. 1, 1993
1200–End, 6 (6 Reserved)	(869–019–00006–2)	21.00	Jan. 1, 1993
7 Parts:			
0–26	(869–017–00007–8)	17.00	Jan. 1, 1992
27–45	(869–019–00008–9)	13.00	Jan. 1, 1993
46–51	(869–017–00009–4)	18.00	Jan. 1, 1992
*52	(869–019–00010–1)	28.00	Jan. 1, 1993
53–209	(869–017–00011–6)	19.00	Jan. 1, 1992
210–299	(869–017–00012–4)	26.00	Jan. 1, 1992
300–399	(869–017–00013–2)	13.00	Jan. 1, 1992
400–699	(869–019–00014–3)	17.00	Jan. 1, 1993
700–899	(869–019–00015–1)	21.00	Jan. 1, 1993
900–999	(869–019–00016–0)	33.00	Jan. 1, 1993
1000–1059	(869–019–00017–8)	20.00	Jan. 1, 1993
1060–1119	(869–019–00018–6)	13.00	Jan. 1, 1993
1120–1199	(869–017–00019–1)	9.50	Jan. 1, 1992
1200–1499	(869–019–00020–8)	27.00	Jan. 1, 1993
1500–1899	(869–019–00021–6)	17.00	Jan. 1, 1993
1900–1939	(869–017–00022–1)	11.00	Jan. 1, 1992
1940–1949	(869–017–00023–0)	23.00	Jan. 1, 1992
1950–1999	(869–017–00024–8)	26.00	Jan. 1, 1992
2000–End	(869–019–00025–9)	12.00	Jan. 1, 1993
8	(869–017–00026–4)	17.00	Jan. 1, 1992
9 Parts:			
1–199	(869–019–00027–5)	27.00	Jan. 1, 1993
200–End	(869–019–00028–3)	21.00	Jan. 1, 1993
10 Parts:			
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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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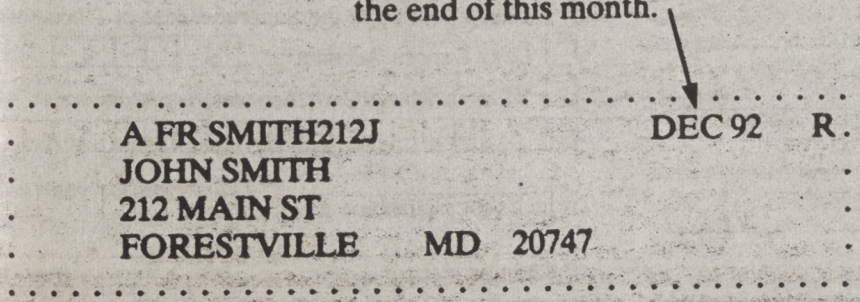

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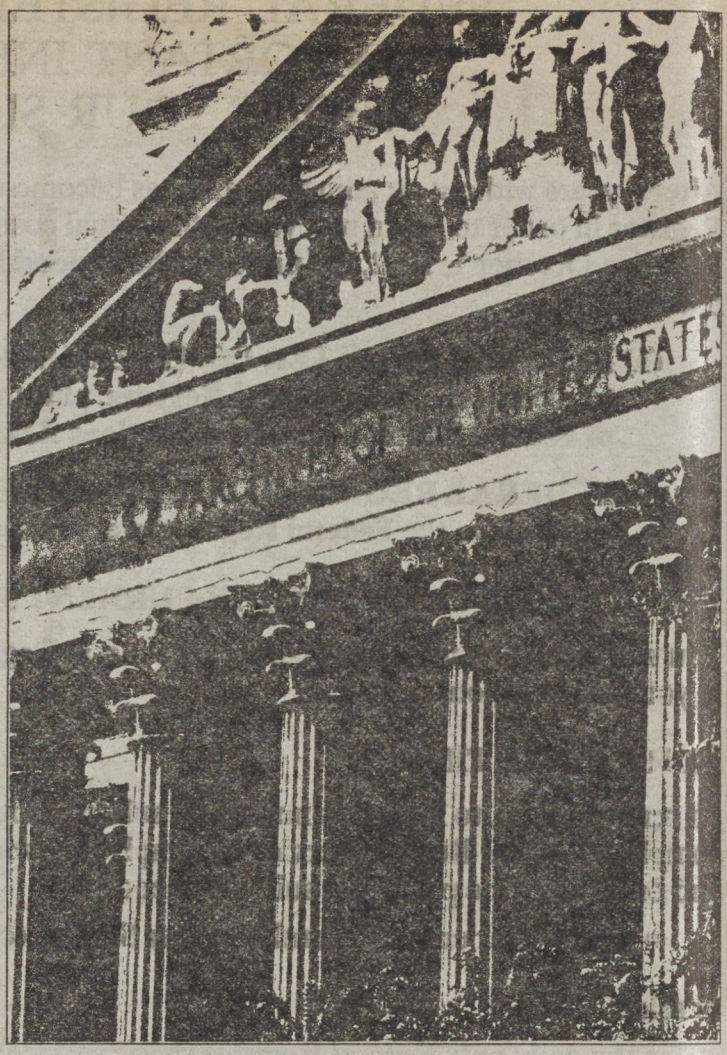

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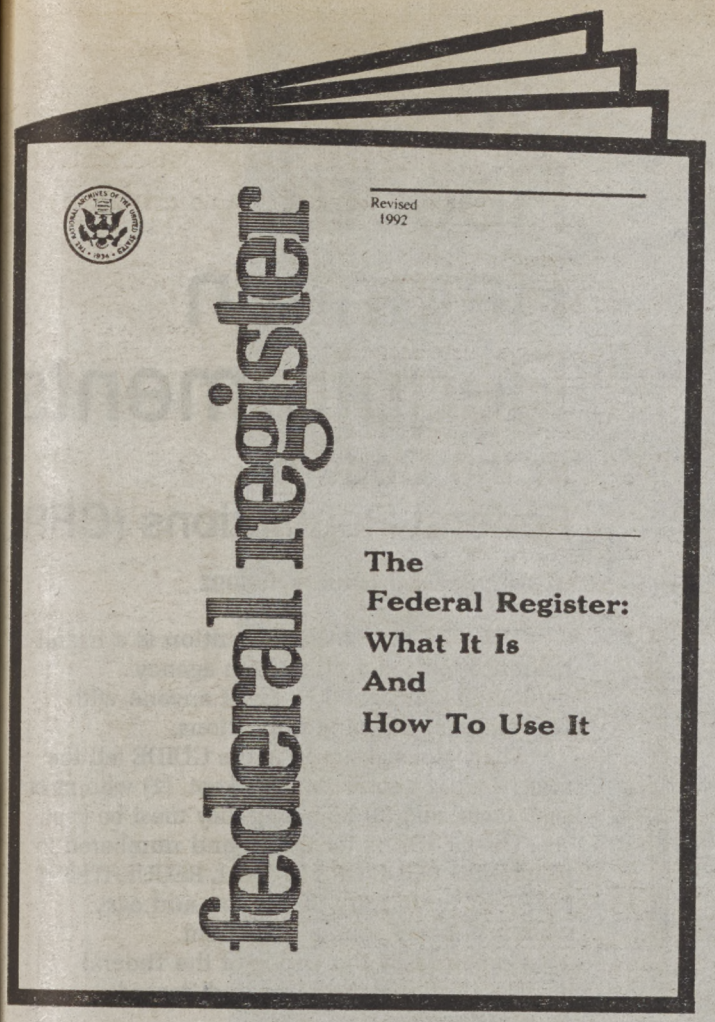

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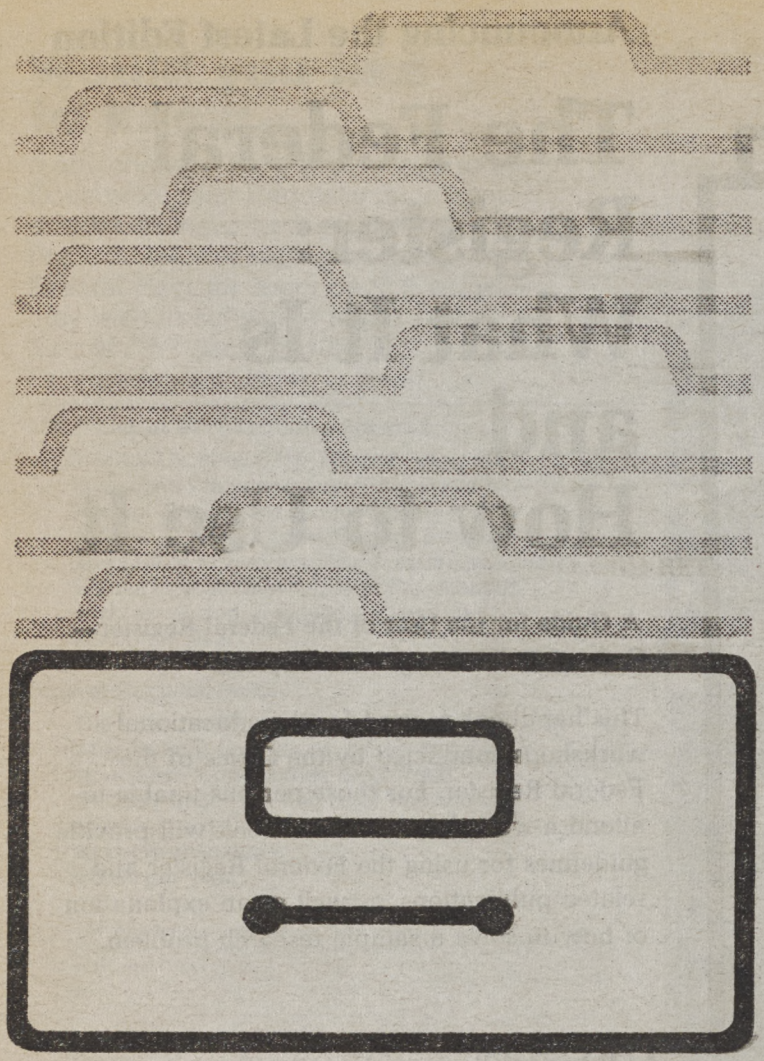

Guide to Record Retention Requirements

in the Code of Federal Regulations (CFR)

GUIDE: Revised January 1, 1992

The GUIDE to record retention is a useful reference tool, compiled from agency regulations, designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

The GUIDE is formatted and numbered to parallel the CODE OF FEDERAL REGULATIONS (CFR) for uniformity of citation and easy reference to the source document.

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